

Calendar No. _____

113TH CONGRESS
1ST SESSION**S. 744****[Report No. 113-_____]**

To provide for comprehensive immigration reform and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, APRIL 16), 2013

Mr. SCHUMER (for himself, Mr. MCCAIN, Mr. DURBIN, Mr. GRAHAM, Mr. MENENDEZ, Mr. RUBIO, Mr. BENNET, and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

_____, (legislative day, _____), _____

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILLTo provide for comprehensive immigration reform and for
other purposes.1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Border Security, Economic Opportunity, and Immigra-
 4 tion Modernization Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Statement of congressional findings.
- Sec. 3. Effective date triggers.
- Sec. 4. Southern Border Security Commission.
- Sec. 5. Comprehensive Southern Border Security Strategy and Southern Border Fencing Strategy.
- Sec. 6. Comprehensive Immigration Reform Trust Fund.
- Sec. 7. Reference to the Immigration and Nationality Act.
- Sec. 8. Definitions.

TITLE I—BORDER SECURITY

- Sec. 1101. Definitions.
- Sec. 1102. Additional U.S. Customs and Border Protection officers.
- Sec. 1103. National Guard support to secure the Southern border.
- Sec. 1104. Enhancement of existing border security operations.
- Sec. 1105. Border security on certain Federal land.
- Sec. 1106. Equipment and technology.
- Sec. 1107. Access to emergency personnel.
- Sec. 1108. Southwest Border region prosecution initiative.
- Sec. 1109. Interagency collaboration.
- Sec. 1110. SCAAP reauthorization.
- Sec. 1111. Use of force.
- Sec. 1112. Training for border security and immigration enforcement officers.
- Sec. 1113. Department of Homeland Security Border Oversight Task Force.
- Sec. 1114. Immigration ombudsman.
- Sec. 1115. Reports.
- Sec. 1116. Severability.

TITLE II—IMMIGRANT VISAS

Subtitle A—Registration and Adjustment of Registered Provisional
 Immigrants

- Sec. 2101. Registered provisional immigrant status.
- Sec. 2102. Adjustment of status of registered provisional immigrants.
- Sec. 2103. The DREAM Act.
- Sec. 2104. Additional requirements.
- Sec. 2105. Criminal penalty.
- Sec. 2106. Grant program to assist eligible applicants.
- Sec. 2107. Conforming amendments to the Social Security Act.
- Sec. 2108. Government contracting and acquisition of real property interest.

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- Sec. 2109. Long-term legal residents of the Commonwealth of the Northern Mariana Islands.
- Sec. 2110. Rulemaking.
- Sec. 2111. Statutory construction.

Subtitle B—Agricultural Worker Program

- Sec. 2201. Short title.
- Sec. 2202. Definitions.

CHAPTER 1—PROGRAM FOR EARNED STATUS ADJUSTMENT OF
AGRICULTURAL WORKERS

SUBCHAPTER A—BLUE CARD STATUS

- Sec. 2211. Requirements for blue card status.
- Sec. 2212. Adjustment to permanent resident status.
- Sec. 2213. Use of information.
- Sec. 2214. Reports on blue cards.
- Sec. 2215. Authorization of appropriations.

SUBCHAPTER B—CORRECTION OF SOCIAL SECURITY RECORDS

- Sec. 2221. Correction of social security records.

CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISA PROGRAM

- Sec. 2231. Nonimmigrant classification for nonimmigrant agricultural workers.
- Sec. 2232. Establishment of nonimmigrant agricultural worker program.
- Sec. 2233. Transition of H-2A worker program.
- Sec. 2234. Reports to Congress on nonimmigrant agricultural workers.

CHAPTER 3—OTHER PROVISIONS

- Sec. 2241. Rulemaking.
- Sec. 2242. Reports to Congress.
- Sec. 2243. Effective date.

Subtitle C—Future Immigration

- Sec. 2301. Merit-based points track one.
- Sec. 2302. Merit-based track two.
- Sec. 2303. Repeal of the diversity visa program.
- Sec. 2304. World-wide levels and recapture of unused immigrant visas.
- Sec. 2305. Reclassification of spouses and minor children of lawful permanent residents as immediate relatives.
- Sec. 2306. Numerical limitations on individual foreign states.
- Sec. 2307. Allocation of immigrant visas.
- Sec. 2308. V nonimmigrant visas.
- Sec. 2309. Fiancée and fiancé child status protection.
- Sec. 2310. Equal treatment for all stepchildren.
- Sec. 2311. International adoption harmonization.
- Sec. 2312. Relief for orphans, widows, and widowers.
- Sec. 2313. Discretionary authority with respect to removal, deportation or inadmissibility of citizen and resident immediate family members.
- Sec. 2314. Waivers of inadmissibility.
- Sec. 2315. Continuous presence.
- Sec. 2316. Global health care cooperation.

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- Sec. 2317. Extension and improvement of the Iraqi special immigrant visa program.
- Sec. 2318. Extension and improvement of the Afghan special immigrant visa program.
- Sec. 2319. Elimination of sunsets for certain visa programs.

Subtitle D—Conrad State 30 and Physician Access

- Sec. 2401. Conrad State 30 Program.
- Sec. 2402. Retaining physicians who have practiced in medically underserved communities.
- Sec. 2403. Employment protections for physicians.
- Sec. 2404. Allotment of Conrad 30 waivers.
- Sec. 2405. Amendments to the procedures, definitions, and other provisions related to physician immigration.

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- Sec. 2501. Definitions.

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SUBCHAPTER A—OFFICE OF CITIZENSHIP AND NEW AMERICANS

- Sec. 2511. Office of Citizenship and New Americans.

SUBCHAPTER B—TASK FORCE ON NEW AMERICANS

- Sec. 2521. Establishment.
- Sec. 2522. Purpose.
- Sec. 2523. Membership.
- Sec. 2524. Functions.

CHAPTER 2—PUBLIC-PRIVATE PARTNERSHIP

- Sec. 2531. Establishment of United States Citizenship Foundation.
- Sec. 2532. Funding.
- Sec. 2533. Purposes.
- Sec. 2534. Authorized activities.
- Sec. 2535. Council of directors.
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- Sec. 2537. Initial Entry, Adjustment, and Citizenship Assistance Grant Program.
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- Sec. 2541. Authorization of appropriations.

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- Sec. 2551. Waiver of English requirement for senior new Americans.
- Sec. 2552. Filing of applications not requiring regular internet access.

TITLE III—INTERIOR ENFORCEMENT

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- Sec. 3101. Unlawful employment of unauthorized aliens.
- Sec. 3102. Increasing security and integrity of social security cards.
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- Sec. 3104. Responsibilities of the Social Security Administration.
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- Sec. 3106. Rulemaking.

Subtitle B—Protecting United States Workers

- Sec. 3201. Protections for victims of serious violations of labor and employment law or crime.
- Sec. 3202. Employment Verification System Education Funding.
- Sec. 3203. Directive to the United States Sentencing Commission.
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Subtitle C—Other Provisions

- Sec. 3301. Funding.
- Sec. 3302. Effective date.
- Sec. 3303. Mandatory exit system.
- Sec. 3304. Identity-theft resistant manifest information for passengers, crew, and non-crew onboard departing aircraft and vessels.
- Sec. 3305. Profiling.

Subtitle D—Asylum and Refugee Provisions

- Sec. 3401. Time limits and efficient adjudication of genuine asylum claims.
- Sec. 3402. Refugee family protections.
- Sec. 3403. Clarification on designation of certain refugees.
- Sec. 3404. Asylum determination efficiency.
- Sec. 3405. Stateless persons in the United States.
- Sec. 3406. U visa accessibility.
- Sec. 3407. Representation at overseas refugee interviews.

Subtitle E—Shortage of Immigration Court Resources for Removal Proceedings

- Sec. 3501. Shortage of immigration court personnel for removal proceedings.
- Sec. 3502. Improving immigration court efficiency and reducing costs by increasing access to legal information.
- Sec. 3503. Office of Legal Access Programs.
- Sec. 3504. Codifying Board of Immigration Appeals.
- Sec. 3505. Improved training for immigration judges and Board Members.
- Sec. 3506. Improved resources and technology for immigration courts and Board of Immigration Appeals.

Subtitle F—Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad

- Sec. 3601. Definitions.
- Sec. 3602. Disclosure.
- Sec. 3603. Prohibition on discrimination.
- Sec. 3604. Recruitment fees.
- Sec. 3605. Registration.
- Sec. 3606. Bonding requirement.
- Sec. 3607. Maintenance of lists.

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- Sec. 3608. Amendment to the Immigration and Nationality Act.
- Sec. 3609. Responsibilities of Secretary of State.
- Sec. 3610. Enforcement provisions.
- Sec. 3611. Rule of construction.
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Subtitle G—Interior Enforcement

- Sec. 3701. Criminal street gangs.
- Sec. 3702. Banning habitual drunk drivers from the United States.
- Sec. 3703. Sexual abuse of a minor.
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- Sec. 3706. Penalties related to removal.
- Sec. 3707. Reform of passport, visa, and immigration fraud offenses.
- Sec. 3708. Combating schemes to defraud aliens.
- Sec. 3709. Inadmissibility and removal for passport and immigration fraud offenses.
- Sec. 3710. Directives related to passport and document fraud.
- Sec. 3711. Inadmissible aliens.
- Sec. 3712. Organized and abusive human smuggling activities.
- Sec. 3713. Preventing criminals from renouncing citizenship during wartime.
- Sec. 3714. Diplomatic security service.
- Sec. 3715. Secure alternatives programs.
- Sec. 3716. Oversight of detention facilities.
- Sec. 3717. Procedures for bond hearings and filing of notices to appear.
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- Sec. 3719. Gross violations of human rights.

TITLE IV—REFORMS TO NONIMMIGRANT VISA PROGRAMS

Subtitle A—Employment-based Nonimmigrant Visas

- Sec. 4101. Market-based H-1B visa limits.
- Sec. 4102. Employment authorization for dependents of employment-based nonimmigrants.
- Sec. 4103. Eliminating impediments to worker mobility.
- Sec. 4104. STEM Education and Training.

Subtitle B—H-1B Visa Fraud and Abuse Protections

CHAPTER 1—H-1B EMPLOYER APPLICATION REQUIREMENTS

- Sec. 4211. Modification of application requirements.
- Sec. 4212. Requirements for admission of nonimmigrant nurses in health professional shortage areas.
- Sec. 4213. New application requirements.
- Sec. 4214. Application review requirements.

CHAPTER 2—INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST H-1B EMPLOYERS

- Sec. 4221. General modification of procedures for investigation and disposition.
- Sec. 4222. Investigation, working conditions, and penalties.
- Sec. 4223. Initiation of investigations.
- Sec. 4224. Information sharing.

CHAPTER 3—OTHER PROTECTIONS

- Sec. 4231. Posting available positions through the Department of Labor.
- Sec. 4232. H-1B government authority and requirements.
- Sec. 4233. Requirements for information for H-1B and L nonimmigrants.
- Sec. 4234. Filing fee for H-1B-dependent employers.
- Sec. 4235. Providing premium processing of employment-based visa petitions.
- Sec. 4236. Technical correction.
- Sec. 4237. Application.

Subtitle C—L Visa Fraud and Abuse Protections

- Sec. 4301. Prohibition on outplacement of L nonimmigrants.
- Sec. 4302. L employer petition requirements for employment at new offices.
- Sec. 4303. Cooperation with Secretary of State.
- Sec. 4304. Limitation on employment of L nonimmigrants.
- Sec. 4305. Filing fee for L nonimmigrants.
- Sec. 4306. Investigation and disposition of complaints against L nonimmigrant employers.
- Sec. 4307. Penalties.
- Sec. 4308. Prohibition on retaliation against L nonimmigrants.
- Sec. 4309. Reports on L nonimmigrants.
- Sec. 4310. Application.
- Sec. 4311. Report on L blanket petition process.

Subtitle D—Other Nonimmigrant Visas

- Sec. 4401. Nonimmigrant visas for students.
- Sec. 4402. Classification for specialty occupation workers from free trade countries.
- Sec. 4403. E-visa reform.
- Sec. 4404. Other changes to nonimmigrant visas.
- Sec. 4405. Treatment of nonimmigrants during adjudication of application.
- Sec. 4406. Nonimmigrant elementary and secondary school students.

Subtitle E—JOLT Act

- Sec. 4501. Short titles.
- Sec. 4502. Premium processing.
- Sec. 4503. Encouraging Canadian tourism to the United States.
- Sec. 4504. Retiree visa.
- Sec. 4505. Incentives for foreign visitors visiting the United States during low peak seasons.
- Sec. 4506. Visa waiver program enhanced security and reform.
- Sec. 4507. Expediting entry for priority visitors.
- Sec. 4508. Visa processing.

Subtitle F—Reforms to the H-2B Visa Program

- Sec. 4601. Extension of returning worker exemption to H-2B numerical limitation.
- Sec. 4602. Other requirements for H-2B employers.
- Sec. 4603. Nonimmigrants participating in relief operations.
- Sec. 4604. Nonimmigrants performing maintenance on common carriers.

Subtitle G—W Nonimmigrant Visas

- Sec. 4701. Bureau of Immigration and Labor Market Research.

Sec. 4702. Nonimmigrant classification for *W* nonimmigrants.

Sec. 4703. Admission of *W* nonimmigrant workers.

Subtitle H—Investing in New Venture, Entrepreneurial Startups, and
Technologies

Sec. 4801. Nonimmigrant INVEST visas.

Sec. 4802. INVEST immigrant visa.

Sec. 4803. Administration and oversight.

1 **SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS.**

2 Congress makes the following findings:

3 (1) The passage of this Act recognizes that the
4 primary tenets of its success depend on securing the
5 sovereignty of the United States of America and es-
6 tablishing a coherent and just system for integrating
7 those who seek to join American society.

8 (2) We have a right, and duty, to maintain and
9 secure our borders, and to keep our country safe and
10 prosperous. As a nation founded, built and sustained
11 by immigrants we also have a responsibility to har-
12 ness the power of that tradition in a balanced way
13 that secures a more prosperous future for America.

14 (3) We have always welcomed newcomers to the
15 United States and will continue to do so. But in
16 order to qualify for the honor and privilege of even-
17 tual citizenship, our laws must be followed. The
18 world depends on America to be strong — economi-
19 cally, militarily and ethically. The establishment of a
20 stable, just and efficient immigration system only
21 supports those goals. As a nation, we have the right

1 and responsibility to make our borders safe, to es-
2 tablish clear and just rules for seeking citizenship, to
3 control the flow of legal immigration, and to elimi-
4 nate illegal immigration, which in some cases has be-
5 come a threat to our national security.

6 (4) All parts of this Act are premised on the
7 right and need of the United States to achieve these
8 goals, and to protect its borders and maintain its
9 sovereignty.

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

11 (a) DEFINITIONS.—In this section:

12 (1) COMMISSION.—The term “Commission”
13 means the Southern Border Security Commission es-
14 tablished pursuant to section 4.

15 (2) COMPREHENSIVE SOUTHERN BORDER SEC-
16 URITY STRATEGY.—The term “Comprehensive South-
17 ern Border Security Strategy” means the strategy
18 established by the Secretary pursuant to section 5(a)
19 to achieve and maintain an effectiveness rate of 90
20 percent or higher in all high risk border sectors.

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

24 (A) persistent surveillance; and

1 (B) an effectiveness rate of 90 percent or
2 higher.

3 (4) ~~EFFECTIVENESS RATE.~~—The “effectiveness
4 rate”, in the case of a border sector, is the percent-
5 age calculated by dividing the number of apprehen-
6 sions and turn backs in the sector during a fiscal
7 year by the total number of illegal entries in the sec-
8 tor during such fiscal year.

9 (5) ~~HIGH RISK BORDER SECTOR.~~—The term
10 “high risk border sector” means a border sector in
11 which more than 30,000 individuals were appre-
12 hended during the most recent fiscal year.

13 (6) ~~SOUTHERN BORDER.~~—The term “Southern
14 border” means the international border between the
15 United States and Mexico.

16 (7) ~~SOUTHERN BORDER FENCING STRATEGY.~~—
17 The term “Southern Border Fencing Strategy”
18 means the strategy established by the Secretary pur-
19 suant to section 5(b) that identifies where fencing,
20 including double-layer fencing, should be deployed
21 along the Southern border.

22 (b) ~~BORDER SECURITY GOAL.~~—The Department’s
23 border security goal is to achieve and maintain effective
24 control in high risk border sectors along the Southern bor-
25 der.

1 (c) TRIGGERS.—

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

13 (2) ADJUSTMENT OF STATUS OF REGISTERED
14 PROVISIONAL IMMIGRANTS.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the Secretary may not ad-
17 just the status of aliens who have been granted
18 registered provisional immigrant status, except
19 for aliens granted agriculture card status under
20 section 2201 of this Act or described in section
21 245D(b) of the Immigration and Nationality
22 Act, until the Secretary, after consultation with
23 the Comptroller General of the United States,
24 submits to the President and Congress a writ-
25 ten certification that—

1 (i) the Comprehensive Southern Bor-
2 der Security Strategy has been submitted
3 to Congress and is substantially deployed
4 and substantially operational;

5 (ii) the Southern Border Fencing
6 Strategy has been submitted to Congress,
7 implemented, and is substantially com-
8 pleted;

9 (iii) the Secretary has implemented a
10 mandatory employment verification system
11 to be used by all employers to prevent un-
12 authorized workers from obtaining employ-
13 ment in the United States; and

14 (iv) the Secretary is using an elec-
15 tronic exit system at air and sea ports of
16 entry that operates by collecting machine-
17 readable visa or passport information from
18 air and vessel carriers.

19 (B) EXCEPTION.—The Secretary shall per-
20 mit registered provisional immigrants to apply
21 for an adjustment to lawful permanent resident
22 status if—

23 (i)(I) litigation or a force majeure has
24 prevented one or more of the conditions

1 described in clauses (i) through (iv) of sub-
2 paragraph (A) from being implemented; or
3 ~~(H) the implementation of subpara-~~
4 ~~graph (A) has been held unconstitutional~~
5 ~~by the Supreme Court of the United States~~
6 ~~or the Supreme Court has granted certio-~~
7 ~~rari to the litigation on the constitu-~~
8 ~~tionalty of implementation of subpara-~~
9 ~~graph (A); and~~
10 (ii) 10 years have elapsed since the
11 date of the enactment of this Act.

12 ~~(d) WAIVER OF LEGAL REQUIREMENTS NECESSARY~~
13 ~~FOR IMPROVEMENT AT BORDERS.—Notwithstanding any~~
14 ~~other provision of law, the Secretary is authorized to waive~~
15 ~~all legal requirements that the Secretary determines to be~~
16 ~~necessary to ensure expeditious construction of the bar-~~
17 ~~riers, roads, or other physical tactical infrastructure need-~~
18 ~~ed to fulfill the requirements under this section. Any de-~~
19 ~~termination by the Secretary under this section shall be~~
20 ~~effective upon publication in the Federal Register.~~

21 ~~(e) FEDERAL COURT REVIEW.—~~

22 ~~(1) IN GENERAL.—The district courts of the~~
23 ~~United States shall have exclusive jurisdiction to~~
24 ~~hear all causes or claims arising from any action un-~~
25 ~~dertaken, or any decision made, by the Secretary~~

1 under subsection (d). A cause of action or claim may
2 only be brought alleging a violation of the Constitu-
3 tion of the United States. The court does not have
4 jurisdiction to hear any claim not specified in this
5 paragraph.

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

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

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

15 (a) ESTABLISHMENT.—If Secretary certifies that the
16 Department has not achieved effective control in all high
17 risk border sectors during any fiscal year beginning before
18 the date that is 5 years after the date of the enactment
19 of this Act, not later than 60 days after the date of the
20 certification there shall be established a commission to be
21 known as the “Southern Border Security Commission”
22 (referred to in this section as the “Commission”).

23 (b) COMPOSITION.—

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

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

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

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

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

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

16 (i) 1 shall be appointed upon the rec-
17 ommendation of the leader in the House of
18 Representatives of the political party that
19 is not the political party of the President;
20 and

21 (ii) 1 shall be appointed upon the rec-
22 ommendation of the leader in the House of
23 Representatives of the other political party;
24 and

1 ~~(D)~~ 4 members, consisting of 1 member
2 from each of the States along the Southern bor-
3 der, who shall be—

4 (i) the Governor of such State; or
5 (ii) appointed by the Governor of each
6 such State.

7 ~~(2) QUALIFICATION FOR APPOINTMENT.—~~Ap-
8 pointed members of the Commission shall be distin-
9 guished individuals noted for their knowledge and
10 experience in the field of border security at the Fed-
11 eral, State, or local level.

12 ~~(3) TIME OF APPOINTMENT.—~~The appoint-
13 ments required by paragraph ~~(1)~~ shall be made not
14 later than 60 days after the Secretary makes a cer-
15 tification described in subsection ~~(a)~~.

16 ~~(4) CHAIR.—~~At the first meeting of the Com-
17 mission, a majority of the members of the Commis-
18 sion present and voting shall elect the Chair of the
19 Commission.

20 ~~(5) VACANCIES.—~~Any vacancy of the Commis-
21 sion shall not affect its powers, but shall be filled in
22 the manner in which the original appointment was
23 made.

24 ~~(6) RULES.—~~The Commission shall establish
25 the rules and procedures of the Commission which

1 shall require the approval of at least 6 members of
2 the Commission.

3 (c) DUTIES.—The Commission's primary responsi-
4 bility shall be making recommendations to the President,
5 the Secretary, and Congress on policies to achieve and
6 maintain the border security goal specified in section 3(b)
7 by achieving and maintaining—

8 (1) the capability to engage in, and to engage
9 in, persistent surveillance in high risk border sectors
10 along the Southern border; and

11 (2) an effectiveness rate of 90 percent or higher
12 in all high risk border sectors along the Southern
13 border.

14 (d) REPORT.—Not later than 180 days after the end
15 of the 5-year period described in subsection (a), the Com-
16 mission shall submit to the President, the Secretary, and
17 Congress a report setting forth specific recommendations
18 for policies for achieving and maintaining the border secu-
19 rity goals specified in subsection (c). The report shall in-
20 clude, at a minimum, recommendations for the personnel,
21 infrastructure, technology, and other resources required to
22 achieve and maintain an effectiveness rate of 90 percent
23 or higher in all high risk border sectors.

24 (e) TRAVEL EXPENSES.—Members of the Commis-
25 sion shall be allowed travel expenses, including per diem

1 in lieu of subsistence rates authorized for employees of
2 agencies under subchapter I of chapter 57 of title 5,
3 United States Code, while away from their homes or reg-
4 ular places of business in the performance of services for
5 the Commission.

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

14 (g) COMPTROLLER GENERAL REVIEW.—The Comp-
15 troller General of the United States shall review the rec-
16 ommendations in the report submitted under subsection
17 (d) in order to determine—

18 (1) whether any of the recommendations are
19 likely to achieve effective control in all high risk bor-
20 der sectors;

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

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

1 (h) ~~TERMINATION.~~—The Commission shall terminate
2 30 days after the date on which the report is submitted
3 under subsection (d).

4 **SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY**
5 **STRATEGY AND SOUTHERN BORDER FENC-**
6 **ING STRATEGY.**

7 (a) ~~COMPREHENSIVE SOUTHERN BORDER SECURITY~~
8 ~~STRATEGY.~~—

9 (1) ~~IN GENERAL.~~—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary shall submit a strategy, to be known as the
12 “Comprehensive Southern Border Security Strat-
13 egy”, for achieving and maintaining effective control
14 between the ports of entry in all high risk border
15 sectors along the Southern border, to—

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

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

20 (C) the Committee on Appropriations of
21 the Senate;

22 (D) the Committee on Appropriations of
23 the House of Representatives; and

24 (E) 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;

5 (B) the capabilities that must be obtained
6 to meet each of the priorities referred to in sub-
7 paragraph (A), including—

8 (i) surveillance and detection capabili-
9 ties developed or used by the Department
10 of Defense to increase situational aware-
11 ness; and

12 (ii) the requirement for stationing suf-
13 ficient Border Patrol agents and Customs
14 and Border Protection officers at and be-
15 tween ports of entry along the Southern
16 border; and

17 (C) the resources, including personnel, in-
18 frastructure, and technology that must be pro-
19 cured and successfully deployed to obtain the
20 capabilities referred to in subparagraph (B), in-
21 cluding—

22 (i) fixed, mobile, and agent portable
23 surveillance systems; and

24 (ii) unarmed, unmanned aerial sys-
25 tems and unarmed, fixed-wing aircraft and

1 necessary and qualified staff and equip-
2 ment to fully utilize such systems.

3 ~~(3)~~ ~~ADDITIONAL ELEMENTS REGARDING EXE-~~
4 ~~CUTION.~~—The Comprehensive Southern Border Se-
5 curity Strategy shall describe—

6 (A) how the resources referred to in para-
7 graph ~~(2)~~(C) will be properly aligned with the
8 priorities referred to in paragraph ~~(2)~~(A) to en-
9 sure that the strategy will be successfully exe-
10 cuted;

11 (B) the interim goals that must be accom-
12 plished to successfully implement the strategy;
13 and

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

18 ~~(4)~~ ~~IMPLEMENTATION.~~—

19 (A) ~~IN GENERAL.~~—The Secretary shall
20 commence the implementation of the Com-
21 prehensive Southern Border Security Strategy
22 immediately after submitting the strategy under
23 paragraph ~~(1)~~.

24 (B) ~~NOTICE OF COMMENCEMENT.~~—Upon
25 commencing the implementation of the strategy,

1 the Secretary shall submit a notice of com-
2 mencement of such implementation to—

3 (i) Congress; and

4 (ii) the Comptroller General of the
5 United States.

6 ~~(5) SEMIANNUAL REPORTS.—~~

7 ~~(A) IN GENERAL.—~~After the Comprehen-
8 sive Southern Border Security Strategy is sub-
9 mitted under paragraph ~~(1)~~,the Secretary shall
10 submit, not later than May 15 and November
11 15 of each year, a report on the status of the
12 Department's implementation of the strategy
13 to—

14 (i) the Committee on Homeland Secu-
15 rity and Governmental Affairs of the Sen-
16 ate;

17 (ii) the Committee on Homeland Se-
18 curity of the House of Representatives;

19 (iii) the Committee on Appropriations
20 of the Senate; and

21 (iv) the Committee on Appropriations
22 of the House of Representatives.

23 ~~(B) ELEMENTS.—~~Each report submitted
24 under subparagraph ~~(A)~~ shall include—

1 (i) a detailed description of the steps
2 the Department has taken, or plans to
3 take, to execute the strategy submitted
4 under paragraph (1), including the
5 progress made toward achieving the in-
6 terim goals and milestone schedule estab-
7 lished pursuant to subparagraphs (B) and
8 (C) of paragraph (3);

9 (ii) a detailed description of—

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

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

16 (III) any additional measures de-
17 veloped by the Department to meas-
18 ure the state of security along the
19 Southern border; and

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

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

1 (II) the number of recidivist ap-
2 prehensions, sorted by Border Patrol
3 sector; and

4 (III) the recidivism rate for all
5 unique subjects that received a crimi-
6 nal consequence through the Con-
7 sequence Delivery System process.

8 (b) SOUTHERN BORDER FENCING STRATEGY.—

9 (1) ESTABLISHMENT.—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary shall establish a strategy, to be known as the
12 “Southern Border Fencing Strategy”, to identify
13 where fencing, including double-layer fencing, infra-
14 structure, and technology should be deployed along
15 the Southern border.

16 (2) SUBMITTAL.—The Secretary shall submit
17 the Southern Border Fencing Strategy to Congress
18 and the Comptroller General of the United States
19 for review.

20 (3) NOTICE OF COMMENCEMENT.—Upon com-
21 mencing the implementation of the Southern Border
22 Fencing Strategy, the Secretary shall submit a no-
23 tice of commencement of the implementation of the
24 Strategy to Congress and the Comptroller General of
25 the United States.

1 **SEC. 6. COMPREHENSIVE IMMIGRATION REFORM TRUST**
2 **FUND.**

3 (a) **COMPREHENSIVE IMMIGRATION REFORM TRUST**
4 **FUND.—**

5 (1) **ESTABLISHMENT.—**There is established in
6 the Treasury a separate account, to be known as the
7 Comprehensive Immigration Reform Trust Fund
8 (referred to in this section as the “Trust Fund”),
9 consisting of—

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

13 (B) proceeds from the fees described in
14 paragraph (2)(B).

15 (2) **DEPOSITS.—**

16 (A) **INITIAL FUNDING.—**On the later of
17 the date of the enactment of this Act or Octo-
18 ber 1, 2013, \$6,500,000,000 shall be trans-
19 ferred from the general fund of the Treasury to
20 the Trust Fund.

21 (B) **START-UP COSTS.—**On the later of the
22 date of the enactment of this Act or October 1,
23 2013, \$100,000,000 is hereby appropriated
24 from the general fund of the Treasury, to re-
25 main available until September 30, 2015, to the

1 Department to pay for one-time and startup
2 costs necessary to implement this Act,

3 (C) ONGOING FUNDING.—In addition to
4 the funding described in subparagraph (A), the
5 following amounts shall be deposited in the
6 trust fund:

7 (i) ELECTRONIC TRAVEL AUTHORIZA-
8 TION SYSTEM FEES.—75 percent of the
9 fees collected under section 217(h)(3)(B)
10 of the Immigration and Nationality Act (8
11 U.S.C. 1187(h)(3)).

12 (ii) J-1 VISA MITIGATION FEES.—
13 Mitigation fees collected from employers
14 who employ aliens described in section
15 101(a)(15)(J) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101(a)(15)(J))
17 through the Summer Work Travel Pro-
18 gram.

19 (iii) H-1B VISA FEES.—Fees collected
20 from employers hiring nonimmigrants de-
21 scribed in section 101(a)(15)(H)(i)(b) of
22 the Immigration and Nationality Act (8
23 U.S.C. 1101 (a)(15)(H)(i)(b)).

24 (iv) L-1 VISA FEES.—Fees collected
25 under section 214(c)(12) of the Immigra-

1 tion and Nationality Act (8 U.S.C.
2 1184(e)(12) from employers hiring a non-
3 immigrant described in section
4 101(a)(15)(L) of such Act (8 U.S.C.
5 1101(a)(15)(L)).

6 (v) ~~H-2B VISA FEES.~~—Fees collected
7 from employers hiring nonimmigrants de-
8 scribed in section 101(a)(15)(H)(ii)(b) of
9 the Immigration and Nationality Act (8
10 U.S.C. 1101 (a)(15)(H)(i i)(b)) in the
11 amount of \$500 under section 214 of the
12 Immigration and Nationality Act (8 U.S.C.
13 1184).

14 (vi) ~~F-1 VISA FEES.~~—Fees collected
15 for nonimmigrants admitted under section
16 101(a)(15)(F)(i) of the Immigration and
17 Nationality Act (8 U.S.C.
18 1101(a)(15)(F)(i)) in the amount of \$500
19 under section 214 of the Immigration and
20 Nationality Act (8 U.S.C. 1184)

21 (vii) ~~VISITOR VISA FEES.~~—Amend
22 Section 214 to add a \$5 fee for visitor
23 visas 101(a)(15)(B).

1 (viii) MERIT SYSTEM GREEN CARD
2 FEES.—Include the fee charged in the doc-
3 ument to get a “merit system” green card.

4 (ix) OTHER ALIENS.—An alien who is
5 allocated a visa under section 211 shall
6 pay a fee of \$1,500.

7 (x) PENALTY.—Penalties collected
8 from applicants for provisional immigrant
9 status under section 245B(e)(9)(C) of the
10 Immigration and Nationality Act, as added
11 by section 2101 of this Act.

12 (xi) H-1B NONIMMIGRANT DEPEND-
13 ENT EMPLOYER FEES.—Fees collected
14 under section 423(a)(2).

15 (xii) 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 4201(d).

20 (xiii) L NONIMMIGRANT DEPENDENT
21 EMPLOYER FEES.—Fees collected under
22 section 435(a)(2).

23 (xiv) RETIREE VISA FEES.—Fees col-
24 lected under section 101(a)(15)(Y) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(15)(Y)).

3 ~~(xv) NONIMMIGRANTS PERFORMING~~
4 ~~MAINTENANCE ON COMMON CARRIERS.—~~
5 Fees collected under subsection (z) of sec-
6 tion 214 of the Immigration and Nation-
7 ality Act (8 U.S.C. 1184), as added by sec-
8 tion 4604.

9 ~~(3) USE OF FUNDS.—~~

10 ~~(A) INITIAL FUNDING.—Of the amounts~~
11 ~~transferred to the Trust Fund pursuant to~~
12 ~~paragraph (2)(A)—~~

13 ~~(i) \$3,000,000,000 shall be made~~
14 ~~available to the Secretary, during the 5-~~
15 ~~year period beginning on the date of the~~
16 ~~enactment of this Act, to carry out the~~
17 ~~Comprehensive Southern Border Security~~
18 ~~Strategy;~~

19 ~~(ii) \$2,000,000,000 shall be made~~
20 ~~available to the Secretary, during the 10-~~
21 ~~year period beginning on the date of the~~
22 ~~enactment of this Act, to carry out pro-~~
23 ~~grams, projects, and activities rec-~~
24 ~~ommended by the Commission pursuant to~~
25 ~~section 4(c) to achieve and maintain the~~

1 border security goal specified in section
2 3(b); and

3 (iii) \$1,500,000,000 shall be made
4 available to the Secretary, during the 5-
5 year period beginning on the date of the
6 enactment of this Act, to procure and de-
7 ploy additional fencing in high-risk border
8 sectors in accordance with the Southern
9 Border Fencing Strategy established pur-
10 suant to section 5(b).

11 (B) ONGOING FUNDING.—Of the amounts
12 deposited into the Trust Fund pursuant to
13 paragraph (2)(B)—

14 (i) \$50,000,000 shall be available dur-
15 ing each of the fiscal years 2014 through
16 2018 to carry out the activities described
17 in section 1104(a)(1); and

18 (ii) \$50,000,000 shall be available
19 during each of the fiscal years 2014
20 through 2018 to carry out the activities
21 described in section 1104(b).

22 (b) LIMITATION ON COLLECTION.—No fee described
23 in paragraph (2)(B) may be collected under this Act ex-
24 cept to the extent that the expenditure of the fee to pay

1 the costs of activities and services for which the fee is im-
2 posed is provided for in advance in an appropriations Act.

3 (c) RECEIPTS COLLECTED AS OFFSETTING RE-
4 CEIPTS.—Notwithstanding section 3302 of title 31,
5 United States Code, any fee collected under this Act—

6 (1) shall be credited as offsetting collections to
7 the Trust Fund;

8 (2) shall be available for expenditure only to
9 pay the costs of activities and services authorized
10 from the Trust Fund; and

11 (3) shall remain available until expended.

12 (d) DETERMINATION OF BUDGETARY EFFECTS.—

13 (1) EMERGENCY DESIGNATION FOR CONGRES-
14 SIONAL ENFORCEMENT.—In the Senate, amounts
15 made available under this section are designated as
16 an emergency requirement pursuant to section
17 403(a) of S. Con. Res. 13 (111th Congress), the
18 concurrent resolution on the budget for fiscal year
19 2010.

20 (2) EMERGENCY DESIGNATION FOR STATUTORY
21 PAYGO.—Amounts made available under this section
22 are designated as an emergency requirement under
23 section 4(g) of the Statutory Pay-As-You-Go Act of
24 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

1 **SEC. 7. REFERENCE TO THE IMMIGRATION AND NATION-**
2 **ALITY ACT.**

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

9 **SEC. 8. DEFINITIONS.**

10 In this Act:

11 (1) **DEPARTMENT.**—Except as otherwise pro-
12 vided, the term “Department” means the Depart-
13 ment of Homeland Security.

14 (2) **SECRETARY.**—Except as otherwise provided,
15 the term “Secretary” means the Secretary of Home-
16 land Security.

17 **TITLE I—BORDER SECURITY**

18 **SEC. 1101. DEFINITIONS.**

19 In this title:

20 (1) **RURAL, HIGH-TRAFFICKED AREAS.**—The
21 term “rural, high-trafficked areas” means rural
22 areas through which drugs and undocumented aliens
23 are routinely smuggled, as designated by the Com-
24 missioner of U.S. Customs and Border Protection.

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

4 (3) SOUTHWEST BORDER REGION.—The term
5 “Southwest border region” means the area in the
6 United States that is within 100 miles of the South-
7 ern border.

8 **SEC. 1102. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
9 **TECTION OFFICERS.**

10 (a) IN GENERAL.—Not later than September 30,
11 2017, the Secretary shall increase the number of trained
12 U.S. Customs and Border Protection officers by 3,500,
13 compared to the number of such officers as of the date
14 of the enactment of this Act. The Secretary shall make
15 progress in increasing such number of officers during each
16 of the fiscal years 2014 through 2017.

17 (b) CONSTRUCTION.—Nothing in subsection (a) may
18 be interpreted to preclude the Secretary from reassigning
19 or stationing U.S. Customs and Border protection officers
20 and agents from the Northern border to the Southern bor-
21 der.

22 (c) FUNDING.—There are authorized to be appro-
23 priated, from the Comprehensive Immigration Reform
24 Trust Fund established under section 6(a)(1), such sums
25 as may be necessary to carry out this section.

1 **SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE**
2 **SOUTHERN BORDER.**

3 (a) **IN GENERAL.**—With the approval of the Sec-
4 retary of Defense, the Governor of a State may order any
5 units or personnel of the National Guard of such State
6 to perform operations and missions under section 502(f)
7 of title 32, United States Code, in the Southwest Border
8 region for the purposes of assisting U.S. Customs and
9 Border Protection in securing the Southern border.

10 (b) **ASSIGNMENT OF OPERATIONS AND MISSIONS.**—

11 (1) **IN GENERAL.**—National Guard units and
12 personnel deployed under subsection (a) may be as-
13 signed such operations and missions specified in sub-
14 section (c) as may be necessary to secure the South-
15 ern border.

16 (2) **NATURE OF DUTY.**—The duty of National
17 Guard personnel performing operations and missions
18 described in paragraph (1) shall be full-time duty
19 under title 32, United States Code.

20 (c) **RANGE OF OPERATIONS AND MISSIONS.**—The op-
21 erations and missions assigned under subsection (b) shall
22 include the temporary authority—

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

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

1 ~~(3)~~ to deploy additional unmanned aerial sys-
2 tems and manned aircraft sufficient to maintain
3 continuous surveillance of the Southern Border;

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

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

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

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

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

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

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

8 **SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY**
9 **OPERATIONS.**

10 (a) **BORDER CROSSING PROSECUTIONS.—**

11 (1) **IN GENERAL.—**The Secretary, acting
12 through the Commissioner, U.S. Customs and Bor-
13 der Protection, shall—

14 (A) increase the number of border crossing
15 prosecutions in the Tucson Sector of the South-
16 west Border region to up to 210 prosecutions
17 per day by increasing the funding available
18 for—

19 (i) attorneys and administrative sup-
20 port staff in the Tucson United States At-
21 torney Office;

22 (ii) support staff and interpreters in
23 the Tucson Court Clerks Office;

24 (iii) pre-trial services;

1 (iv) activities of the Tucson Federal
2 Public Defenders Office; and

3 (v) additional marshals in the Tucson
4 United States Marshals Office to perform
5 intake, coordination, transportation, and
6 court security; and

7 (B) reimburse State, local, and tribal law
8 enforcement agencies for any detention costs re-
9 lated to the border crossing prosecutions carried
10 out pursuant to subparagraph (A).

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

20 (3) ~~FUNDING.~~—There are authorized to be ap-
21 propriated, from the Comprehensive Immigration
22 Reform Trust Fund established under section
23 6(a)(1), such sums as may be necessary to carry out
24 this subsection.

25 (b) ~~OPERATION STONEGARDEN.~~—

1 (1) IN GENERAL.—The Federal Emergency
2 Management Agency shall enhance law enforcement
3 preparedness and operational readiness along the
4 borders of the United States through Operation
5 Stonegarden. The amounts available under this
6 paragraph are in addition to any other amounts oth-
7 erwise made available for Operation Stonegarden.
8 Not less than 90 percent of the amounts made avail-
9 able under section 5(a)(3)(B)(ii) shall be allocated
10 for grants and reimbursements to law enforcement
11 agencies in the States in the Southwest Border re-
12 gion for personnel, overtime, travel, and other costs
13 related to illegal immigration and drug smuggling in
14 the Southwest Border region.

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

19 (c) INFRASTRUCTURE IMPROVEMENTS.—

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

22 (A) construct additional Border Patrol sta-
23 tions in the Southwest Border region that U.S.
24 Border Patrol determines are needed to provide

1 full operational support in rural, high-trafficked
2 areas; and

3 (B) analyze the feasibility of creating addi-
4 tional Border Patrol sectors along the Southern
5 border to interrupt drug trafficking operations.

6 ~~(2) FORWARD OPERATING BASES.—~~The Sec-
7 retary shall enhance the security of the Southwest
8 Border region by—

9 (A) establishing additional permanent for-
10 ward operating bases for the Border Patrol, as
11 needed;

12 (B) upgrading the existing forward oper-
13 ating bases to include modular buildings, elec-
14 tricity, and potable water; and

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

19 ~~(3) AUTHORIZATION OF APPROPRIATIONS.—~~

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

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

24 (a) **DEFINITIONS.—**In this section:

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

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

9 (A) with respect to land under the jurisdic-
10 tion of the Secretary of Agriculture, the Sec-
11 retary of Agriculture; and

12 (B) with respect to land under the jurisdic-
13 tion of the Secretary of the Interior, the Sec-
14 retary of the Interior.

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

17 (1) the Secretary concerned, notwithstanding
18 any other provision of law, shall authorize and pro-
19 vide U.S. Customs and Border Protection personnel
20 with immediate access to Federal lands for security
21 activities, including—

22 (A) routine motorized patrols; and

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

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

6 (3) the Secretary concerned may provide edu-
7 cation and training to U.S. Customs and Border
8 Protection on the natural and cultural resources
9 present on individual Federal land units.

10 (c) PROGRAMMATIC ENVIRONMENTAL IMPACT
11 STATEMENT.—

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

20 (2) EFFECT ON PROCESSING APPLICATION AND
21 SPECIAL USE PERMITS.—The pending completion of
22 a programmatic environmental impact statement
23 under this section shall not result in any delay in the
24 processing or approving of applications or special

1 use permits by the Secretaries concerned for the ac-
2 tivities described in subsection (b).

3 ~~(3) AMENDMENT OF LAND USE PLANS.—~~The
4 Secretaries concerned shall amend any land use
5 plans, as appropriate, upon completion of the pro-
6 grammatic environmental impact statement de-
7 scribed in subsection (b).

8 ~~(4) SCOPE OF PROGRAMMATIC ENVIRONMENTAL~~
9 ~~IMPACT STATEMENT.—~~The programmatic environ-
10 mental impact statement described in paragraph
11 ~~(1)—~~

12 ~~(A)~~ may be used to advise the Secretary on
13 the impact on natural and cultural resources on
14 Federal lands; and

15 ~~(B)~~ shall not control, delay, or restrict ac-
16 tions by the Secretary to achieve effective con-
17 trol on Federal lands.

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

21 **SEC. 1106. EQUIPMENT AND TECHNOLOGY.**

22 ~~(a) ENHANCEMENTS.—~~The Commissioner of U.S.
23 Customs and Border Protection, working through U.S.
24 Border Patrol, shall—

1 (1) deploy additional mobile, video, and agent-
2 portable surveillance systems, and unmanned aerial
3 vehicles in the Southwest Border region as necessary
4 to provide 24-hour operation and surveillance;

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

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

10 (4) acquire new rotocraft and make upgrades to
11 the existing helicopter fleet; and

12 (5) increase horse patrols in the Southwest
13 Border region.

14 (b) **AUTHORIZATION OF APPROPRIATIONS.**—In addi-
15 tion to amounts otherwise authorized to be appropriated,
16 there is authorized to be appropriated to U.S. Customs
17 and Border Protection such sums as may be necessary to
18 carry out subsection (a) during fiscal years 2014 through
19 2018.

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

21 (a) **SOUTHWEST BORDER REGION EMERGENCY COM-**
22 **MUNICATIONS GRANTS.**—

23 (1) **IN GENERAL.**—The Secretary, in consulta-
24 tion with the governors of the States in the South-
25 west Border region, shall establish a 2-year grant

1 program, to be administered by the Secretary, to im-
2 prove emergency communications in the Southwest
3 Border region.

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

7 (A) regularly resides or works in the
8 Southwest Border region;

9 (B) is at greater risk of border violence
10 due to the lack of cellular service at his or her
11 residence or business and his or her proximity
12 to the Southern border.

13 (3) USE OF GRANTS.—Grants awarded under
14 this subsection may be used to purchase satellite
15 telephone communications systems and service
16 that—

17 (A) can provide access to 9-1-1 service;
18 and

19 (B) are equipped with global positioning
20 systems.

21 (4) AUTHORIZATION OF APPROPRIATIONS.—
22 There is authorized to be appropriated such sums as
23 may be necessary to carry out the grant program es-
24 tablished under this subsection.

1 (b) INTEROPERABLE COMMUNICATIONS FOR LAW
2 ENFORCEMENT.—

3 (1) FEDERAL LAW ENFORCEMENT.—There are
4 authorized to be appropriated, to the Department,
5 the Department of Justice, and the Department of
6 the Interior, during the 5-year period beginning on
7 the date of the enactment of this Act, such sums as
8 may be necessary—

9 (A) to purchase, through a competitive
10 procurement process, P25-compliant radios,
11 which may include a multi-band option, for
12 Federal law enforcement agents working in the
13 Southwest Border region in support of the ac-
14 tivities of U.S. Customs and Border Protection
15 and U.S. Immigration and Customs Enforce-
16 ment, including law enforcement agents of the
17 Drug Enforcement Administration, the Bureau
18 of Alcohol, Tobacco, Firearms and Explosives,
19 the Department of the Interior, and the Forest
20 Service; and

21 (B) to upgrade, through a competitive pro-
22 curement process, the communications network
23 of the Department of Justice to ensure coverage
24 and capacity, particularly when immediate ac-
25 cess is needed in times of crisis, in the South-

1 west Border region for appropriate law enforce-
2 ment personnel of the Department of Justice
3 (including the Drug Enforcement Administra-
4 tion and the Bureau of Alcohol, Tobacco, Fire-
5 arms and Explosives); the Department (includ-
6 ing U.S. Immigration and Customs Enforce-
7 ment and U.S. Customs and Border Protec-
8 tion); the United States Marshals Service; other
9 Federal agencies; the State of Arizona; tribes;
10 and local governments.

11 ~~(2) STATE AND LOCAL LAW ENFORCEMENT.—~~

12 ~~(A) AUTHORIZATION OF APPROPRIA-~~
13 ~~TIONS.—~~There is authorized to be appropriated
14 to the Department of Justice, during the 5-year
15 period beginning on the date of the enactment
16 of this Act, such sums as may be necessary to
17 purchase, through a competitive procurement
18 process, P25-compliant radios, which may in-
19 clude a multi-band option, for State and local
20 law enforcement agents working in the South-
21 west Border region.

22 ~~(B) ACCESS TO FEDERAL SPECTRUM.—~~If
23 a State, tribal, or local law enforcement agency
24 in the Southwest Border region experiences an
25 emergency situation that necessitates immediate

1 communication with the Department of Justice,
2 the Department, the Department of the Inte-
3 rior, or any of their respective subagencies,
4 such law enforcement agency shall have access
5 to the spectrum assigned to such Federal agen-
6 cy for the duration of such emergency situation.

7 **SEC. 1108. SOUTHWEST BORDER REGION PROSECUTION**
8 **INITIATIVE.**

9 (a) REIMBURSEMENT TO STATE AND LOCAL PROS-
10 ECUTORS FOR FEDERALLY INITIATED CRIMINAL
11 CASES.—The Attorney General shall reimburse State,
12 county, tribal, and municipal governments for costs associ-
13 ated with the prosecution and pre-trial detention of Feder-
14 ally initiated criminal cases declined by local offices of the
15 United States Attorneys.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated such sums as may be nec-
18 essary to carry out subsection (a) during fiscal years 2014
19 through 2018 :

20 **SEC. 1109. INTERAGENCY COLLABORATION.**

21 The Assistant Secretary of Defense for Research and
22 Engineering shall collaborate with the Under Secretary of
23 Homeland Security for Science and Technology to identify
24 equipment and technology used by the Department of De-
25 fense that could be used by U.S. Customs and Border Pro-

1 tection to improve the security of the Southern border
2 by—

- 3 (1) detecting border tunnels;
- 4 (2) detecting the use of ultralight aircraft;
- 5 (3) enhancing wide aerial surveillance; and
- 6 (4) otherwise improving the enforcement of
7 such border.

8 **SEC. 1110. SCAAP REAUTHORIZATION.**

9 Section 241(i)(5)(C) (8 U.S.C. 1231(i)(5)) is amend-
10 ed by striking “2011” and inserting “2015”.

11 **SEC. 1111. USE OF FORCE.**

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

17 (1) require all Department personnel to report
18 each use of force; and

19 (2) establish procedures for—

20 (A) accepting and investigating complaints
21 regarding the use of force by Department per-
22 sonnel;

23 (B) disciplining Department personnel who
24 violate any law or Department policy relating to
25 the use of force; and

1 (C) reviewing all uses of force by Depart-
2 ment personnel to determine whether the use of
3 force—

4 (i) complied with Department policy;

5 or

6 (ii) demonstrates the need for changes
7 in policy, training, or equipment.

8 **SEC. 1112. TRAINING FOR BORDER SECURITY AND IMMI-**
9 **GRATION ENFORCEMENT OFFICERS.**

10 (a) **IN GENERAL.**—The Secretary shall ensure that
11 U.S. Customs and Border Protection officers, U.S. Border
12 Patrol officers, U.S. Immigration and Customs Enforce-
13 ment agents, and agriculture specialists stationed within
14 100 miles of any land or marine border of the United
15 States or at any United States port of entry receive appro-
16 priate training, which shall be prepared in collaboration
17 with the Assistant Attorney General for the Civil Rights
18 Division of the Department of Justice, in—

19 (1) identifying and detecting fraudulent travel
20 documents;

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

23 (3) the scope of enforcement authorities, includ-
24 ing interrogations, stops, searches, seizures, arrests,
25 and detentions;

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

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

7 (6) social and cultural sensitivity toward border
8 communities;

9 (7) the impact of border operations on commu-
10 nities; and

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

13 (b) TRAINING FOR BORDER COMMUNITY LIAISON
14 OFFICERS.—The Secretary shall ensure that border com-
15 munities liaison officers in Border Patrol sectors along the
16 international borders between the United States and Mex-
17 ico and between the United States and Canada receive
18 training to better—

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

23 (2) foster and institutionalize consultation with
24 border communities;

1 ~~(3)~~ consult with border communities on Depart-
2 ment programs, policies, strategies, and directives;
3 and

4 ~~(4)~~ receive Department performance assess-
5 ments from border communities.

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

8 ~~(a)~~ ESTABLISHMENT.—

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

14 ~~(2)~~ DUTIES.—The DHS Task Force shall—

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

20 ~~(B)~~ recommend ways in which the Border
21 Communities Liaison Offices can strengthen re-
22 lations and collaboration between communities
23 in the border regions and the Department, the
24 Department of Justice, and other Federal agen-

1 cies that carry out such policies, strategies, and
2 programs;

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

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

14 (3) MEMBERSHIP.—

15 (A) IN GENERAL.—The DHS Task Force
16 shall be composed of 26 members, appointed by
17 the President, who have expertise in migration,
18 local crime indices, civil and human rights,
19 community relations, cross-border trade and
20 commerce, quality of life indicators, or other
21 pertinent experience, of whom—

22 (i) 11 members shall be from the
23 Northern border region and shall include—

24 (I) 2 local government elected of-
25 ficials;

1 ~~(II) 2~~ local law enforcement offi-
2 cial;

3 ~~(III) 2~~ civil rights advocates;

4 ~~(IV) 1~~ business representative;

5 ~~(V) 1~~ higher education represent-
6 ative;

7 ~~(VI) 1~~ representative of a faith
8 community; and

9 ~~(VII) 2~~ representatives of U.S.
10 Border Patrol; and

11 (ii) 15 members shall be from the
12 Southern border region and include—

13 ~~(I) 3~~ local government elected of-
14 ficials;

15 ~~(II) 3~~ local law enforcement offi-
16 cials;

17 ~~(III) 3~~ civil rights advocates;

18 ~~(IV) 2~~ business representatives;

19 ~~(V) 1~~ higher education represent-
20 ative;

21 ~~(VI) 1~~ representative of a faith
22 community; and

23 ~~(VII) 2~~ representatives of U.S.
24 Border Patrol.

1 ~~(B) NONGOVERNMENTAL APPOINTEES.—~~

2 Individuals appointed as members of the DHS
3 Task Force may not be employed by the Fed-
4 eral Government.

5 ~~(C) TERM OF SERVICE.—~~Members of the
6 Task Force shall be appointed for the shorter
7 of—

8 ~~(i) 3 years; or~~

9 ~~(ii) the life of the DHS Task Force.~~

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

16 ~~(b) OPERATIONS.—~~

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

21 ~~(2) RECOMMENDATIONS.—~~The DHS Task
22 Force may make findings or recommendations to the
23 Secretary related to the duties described in sub-
24 section ~~(a)(2)~~.

1 (3) RESPONSE.—Not later than 180 days after
2 receiving the findings and recommendations from
3 the DHS Task Force under paragraph (2), the Sec-
4 retary shall issue a response that describes how the
5 Department has addressed, or will address, such
6 findings and recommendations.

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

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

19 (e) REPORT.—Not later than 2 years after its first
20 meeting, the DHS Task Force shall submit a final report
21 to the President, Congress, and the Secretary that con-
22 tains—

23 (1) findings with respect to the duties of the
24 DHS Task Force; and

1 (2) recommendations regarding border and im-
2 migration enforcement policies, strategies, and pro-
3 grams, including—

4 (A) a recommendation as to whether the
5 DHS Task Force should continue to operate;
6 and

7 (B) a description of any duties the DHS
8 Task Force should be responsible for after the
9 termination date described in subsection (e).

10 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated such sums as may be
12 necessary to carry out this section for each of the fiscal
13 years 2014 through 2017.

14 (e) **SUNSET.**—The DHS Task Force shall terminate
15 operations 60 days after the date on which the DHS Task
16 Force submits the report described in subsection (e).

17 **SEC. 1114. IMMIGRATION OMBUDSMAN.**

18 (a) **IN GENERAL.**—Section 452 of the Homeland Se-
19 curity Act (6 U.S.C. 272) is amended—

20 (1) by amending the section heading to read as
21 follows:

1 **“SEC. 452. DEPARTMENT OF HOMELAND SECURITY IMMI-**
2 **GRATION OMBUDSMAN.”;**

3 (2) in subsection (a), by striking “Citizenship
4 and Immigration Services Ombudsman” and insert-
5 ing “DHS Immigration Ombudsman”;

6 (3) in subsection (c)(2), by striking “Director
7 of the Bureau of Citizenship and Immigration Serv-
8 ices” and inserting “Director, U.S. Citizenship and
9 Immigration Services, the Assistant Secretary, U.S.
10 Immigration and Customs Enforcement, the Com-
11 missioner, U.S. Customs and Border Protection”;

12 (4) in subsections (d)(4) and (f), by striking
13 “Director of the Bureau of Citizenship and Immi-
14 gration Services” each place such term appears and
15 inserting “Director, U.S. Citizenship and Immigra-
16 tion Services, the Assistant Secretary, U.S. Immi-
17 gration and Customs Enforcement, and the Commis-
18 sioner, U.S. Customs and Border Protection”;

19 (5) in subsection (f), by striking “director”
20 each place such term appears and inserting “offi-
21 cial”; and

22 (6) by striking “the Bureau of Citizenship and
23 Immigration Services” each place it appears and in-
24 serting “U.S. Citizenship and Immigration Services,
25 U.S. Immigration and Customs Enforcement, or
26 U.S. Customs and Border Protection”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1 of the Homeland Security Act (6 U.S.C. 101
3 et seq.) is amended by striking the item relating to section
4 452 and inserting the following:

“Sec. 452. Department of Homeland Security Immigration Ombudsman.”.

5 **SEC. 1115. REPORTS.**

6 (a) REPORT ON CERTAIN BORDER MATTERS.—The
7 Secretary shall submit a report to the Committee on
8 Homeland Security and Governmental Affairs of the Sen-
9 ate and the Committee on Homeland Security of the
10 House of Representatives that sets forth—

11 (1) the effectiveness rate (as defined in section
12 2(a)(4)) for each Border Patrol sector along the
13 Northern border and the Southern border;

14 (2) the number of miles along the Southern
15 border that is under persistent surveillance;

16 (3) the monthly wait times per passenger, in-
17 cluding data on averages and peaks, for crossing the
18 Southern border, and the staffing of such border
19 crossings; and

20 (4) the allocations at each port of entry along
21 the Southern border.

22 (b) REPORT ON INTERAGENCY COLLABORATION.—

23 The Under Secretary of Defense for Acquisition, Tech-
24 nology, and Logistics and the Under Secretary of Home-
25 land Security for Science and Technology shall jointly sub-

1 mit a report on the results of the interagency collaboration
2 under section 1109 to—

3 (1) the Committee on Armed Services of the
4 Senate;

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

7 (3) the Committee on Armed Services of the
8 House of Representatives; and

9 (4) the Committee on Homeland Security of the
10 House of Representatives.

11 **SEC. 1116. SEVERABILITY.**

12 If any provision of this Act or any amendment made
13 by this Act, or any application of such provision or amend-
14 ment to any person or circumstance, is held to be uncon-
15 stitutional, the remainder of the provisions of this Act and
16 the amendments made by this Act and the application of
17 the provision or amendment to any other person or cir-
18 cumstance shall not be affected.

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

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

6 (a) **AUTHORIZATION.**—Chapter 5 of title II (8 U.S.C.
7 1255 et seq.) is amended by inserting after section 245A
8 the following:

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

13 **“(a) IN GENERAL.**—Notwithstanding any other pro-
14 vision of law, the Secretary of Homeland Security (re-
15 ferred to in this section as the ‘Secretary’), after con-
16 ducting the national security and law enforcement clear-
17 ances required under subsection (c)(8), may grant reg-
18 istered provisional immigrant status to an alien who—

19 **“(1)** meets the eligibility requirements set forth
20 in subsection (b);

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

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

1 “(b) ELIGIBILITY REQUIREMENTS.—

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

7 “(2) PHYSICAL PRESENCE.—

8 “(A) IN GENERAL.—The alien—

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

13 “(ii) shall have been physically
14 present in the United States on or before
15 December 31, 2011; and

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

22 “(B) BREAK IN PHYSICAL PRESENCE.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), an alien who is absent
25 from the United States without authoriza-

1 tion after the date of the enactment of this
2 section does not meet the continuous phys-
3 ical presence requirement set forth in sub-
4 paragraph (A)(iii).

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

13 “(3) GROUNDS FOR INELIGIBILITY.—

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

18 “(i) has a conviction for—

19 “(I) an offense classified as a fel-
20 ony in the convicting jurisdiction
21 (other than a State or local offense
22 for which an essential element was the
23 alien’s immigration status or a viola-
24 tion of this Act);

1 “(II) an aggravated felony (as
2 defined in section 101(a)(43) at the
3 time of the conviction);

4 “(III) 3 or more misdemeanor of-
5 fenses (other than minor traffic of-
6 fenses or State or local offenses for
7 which an essential element was the
8 alien’s immigration status or a viola-
9 tion of this Act) if the alien was con-
10 victed on different dates for each of
11 the 3 offenses;

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

22 “(V) unlawful voting (as defined
23 in section 237(a)(6));

1 “(ii) is admissible under section
2 212(a), except that in determining an
3 alien’s admissibility—

4 “(I) paragraphs (4), (5), (7), and
5 (9)(B) of section 212(a) shall not
6 apply;

7 “(II) subparagraphs (A), (C),
8 (D), (F), and (G) of section 212(a)(6)
9 and paragraphs (9)(C) and (10)(B) of
10 section 212(a) shall not apply unless
11 based on the act of unlawfully enter-
12 ing the United States after the date
13 of the enactment of the Border Secu-
14 rity, Economic Opportunity, and Im-
15 migration Modernization Act; and

16 “(III) paragraphs (6)(B) and
17 (9)(A) of section 212(a) shall not
18 apply unless the relevant conduct
19 began on or after the date on which
20 the alien files an application for reg-
21 istered provisional immigrant status
22 under this section;

23 “(iii) the Secretary knows or has rea-
24 sonable grounds to believe, is engaged in or
25 is likely to engage after entry in any ter-

1 rorist activity (as defined in section
2 212(a)(3)(B)(iv)); or

3 “~~(iv)~~ was, on the date on which this
4 Act was introduced in the Senate—

5 “~~(I)~~ an alien lawfully admitted
6 for permanent residence;

7 “~~(II)~~ an alien admitted as a ref-
8 ugee under section 207 or granted
9 asylum under section 208; or

10 “~~(III)~~ an alien who, according to
11 the records of the Secretary or the
12 Secretary of State, is lawfully present
13 in the United States in any non-
14 immigrant status (other than an alien
15 considered to be a nonimmigrant sole-
16 ly due to the application of section
17 244(f)(4) or the amendment made by
18 section 702 of the Consolidated Nat-
19 ural Resources Act of 2008 (Public
20 Law 110–229)), notwithstanding any
21 unauthorized employment or other
22 violation of nonimmigrant status.

23 “~~(B)~~ WAIVER.—

24 “~~(i)~~ IN GENERAL.—The Secretary
25 may waive the application of subparagraph

1 ~~(A)(i)(III)~~ or any provision of section
2 212(a) that is not listed in clause (ii) on
3 behalf of an alien for humanitarian pur-
4 poses, to ensure family unity, or if such a
5 waiver is otherwise in the public interest.
6 Any discretionary authority to waive
7 grounds of inadmissibility under section
8 212(a) conferred under any other provision
9 of this Act shall apply equally to aliens
10 seeking registered provisional status under
11 this section.

12 ~~“(ii) EXCEPTIONS.—The discretionary~~
13 ~~authority under clause (i) may not be used~~
14 ~~to waive—~~

15 ~~“(I) subparagraph (B), (C),~~
16 ~~(D)(ii), (E), (G), (H), or (I) of section~~
17 ~~212(a)(2);~~

18 ~~“(II) section 212(a)(3);~~

19 ~~“(III) subparagraph (A), (C),~~
20 ~~(D), or (E) of section 212(a)(10); or~~

21 ~~“(IV) with respect to misrepre-~~
22 ~~sentations relating to the application~~
23 ~~for registered provisional immigrant~~
24 ~~status; section 212(a)(6)(C)(i).~~

1 “(C) CONVICTION EXPLAINED.—For pur-
2 poses of this paragraph, the term ‘conviction’
3 does not include a judgment that has been ex-
4 punged, set aside, or the equivalent.

5 “(D) RULE OF CONSTRUCTION.—Nothing
6 in this paragraph may be construed to require
7 the Secretary to commence removal proceedings
8 against an alien.

9 “(4) APPLICABILITY OF OTHER PROVISIONS.—
10 Sections 208(d)(6) and 240B(d) shall not apply to
11 any alien filing an application for registered provi-
12 sional immigrant status under this section.

13 “(5) DEPENDENT SPOUSE AND CHILDREN.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of law, the Secretary shall clas-
16 sify the spouse or child of a registered provi-
17 sional immigrant as a registered provisional im-
18 migrant dependent if the spouse or child—

19 “(i) is physically present in the
20 United States—

21 “(I) on the date on which the
22 registered provisional immigrant is
23 granted such status; and

24 “(II) on or before December 30,
25 2012;

1 “(ii) meets all of the eligibility re-
2 quirements set forth in this subsection,
3 other than the requirements of clause (ii)
4 or (iii) of paragraph (2).

5 “(B) EFFECT OF TERMINATION OF LEGAL
6 RELATIONSHIP.—If the spousal or parental re-
7 lationship between an alien who is granted reg-
8 istered provisional immigrant status under this
9 section and the alien’s child is terminated, the
10 spouse or child may apply for classification as
11 a registered provisional immigrant dependent if
12 the termination of the relationship with such
13 parent was due to death, divorce, or otherwise
14 connected to domestic violence, notwithstanding
15 subsection (e)(3).

16 “(C) EFFECT OF DISQUALIFICATION OF
17 PARENT.—If the application of a spouse or par-
18 ent for registered provisional immigrant status
19 is terminated or revoked, the husband, wife, or
20 child of that spouse or parent shall be eligible
21 to apply for registered provisional immigrant
22 status independent of the parent notwith-
23 standing subsection (e)(3).

24 “(e) APPLICATION PROCEDURES.—

1 “(1) IN GENERAL.—An alien, or the dependent
2 spouse or child of such alien, who meets the eligi-
3 bility requirements set forth in subsection (b) may
4 apply for status as a registered provisional immi-
5 grant or a registered provisional immigrant depend-
6 ent, as applicable, by submitting a completed appli-
7 cation form to the Secretary during the application
8 period set forth in paragraph (3), in accordance with
9 the final rule promulgated by the Secretary under
10 the Border Security, Economic Opportunity, and
11 Immigration Modernization Act. An applicant for
12 registered provisional immigrant status shall be
13 treated as an applicant for admission.

14 “(2) PAYMENT OF TAXES.—

15 “(A) IN GENERAL.—An alien may not file
16 an application for registered provisional immi-
17 grant status under paragraph (1) unless the ap-
18 plicant has satisfied any applicable Federal tax
19 liability.

20 “(B) DEFINITION OF APPLICABLE FED-
21 ERAL TAX LIABILITY.—In this paragraph, the
22 term ‘applicable Federal tax liability’ means all
23 Federal income taxes assessed in accordance
24 with section 6203 of the Internal Revenue Code
25 of 1986.

1 “(C) DEMONSTRATION OF COMPLIANCE.—

2 An applicant may demonstrate compliance with
3 this paragraph by submitting appropriate docu-
4 mentation, in accordance with regulations pro-
5 mulgated by the Secretary, in consultation with
6 the Secretary of the Treasury.

7 “(3) APPLICATION PERIOD.—

8 “(A) INITIAL PERIOD.—Except as provided
9 in subparagraph (B), the Secretary may only
10 accept applications for registered provisional
11 immigrant status from aliens in the United
12 States during the 1-year period beginning on
13 the date on which the final rule is published in
14 the Federal Register pursuant to paragraph
15 (1).

16 “(B) EXTENSION.—If the Secretary deter-
17 mines, during the initial period described in
18 subparagraph (A), that additional time is re-
19 quired to process applications for registered
20 provisional immigrant status or for other good
21 cause, the Secretary may extend the period for
22 accepting applications for such status for an
23 additional 18 months.

24 “(4) APPLICATION FORM.—

1 “(A) REQUIRED INFORMATION.—The ap-
2 plication form referred to in paragraph (1) shall
3 collect such information as the Secretary deter-
4 mines necessary and appropriate.

5 “(B) FAMILY APPLICATION.—The See-
6 retary shall establish a process through which
7 an alien may submit a single application under
8 this section on behalf of the alien, his or her
9 spouse, and his or her children, who are resid-
10 ing in the United States.

11 “(C) INTERVIEW.—The Secretary may
12 interview applicants for registered provisional
13 immigrant status under this section to deter-
14 mine whether they meet the eligibility require-
15 ments set forth in subsection (b).

16 “(5) ALIENS APPREHENDED BEFORE OR DUR-
17 ING THE APPLICATION PERIOD.—If an alien who is
18 apprehended during the period beginning on the
19 date of the enactment of the Border Security, Eco-
20 nomic Opportunity, and Immigration Modernization
21 Act and the end of the application period described
22 in paragraph (3) appears prima facie eligible for
23 registered provisional immigrant status, to the satis-
24 faction of the Secretary, the Secretary—

1 “(A) shall provide the alien with a reason-
2 able opportunity to file an application under
3 this section during such application period; and

4 “(B) may not remove the individual until
5 a final administrative determination is made on
6 the application.

7 ~~“(6) ELIGIBILITY AFTER DEPARTURE.—~~

8 ~~“(A) IN GENERAL.—An alien who departed~~
9 ~~from the United States while subject to an~~
10 ~~order of exclusion, deportation, or removal, or~~
11 ~~pursuant to an order of voluntary departure~~
12 ~~and who is outside of the United States, or who~~
13 ~~has reentered the United States illegally after~~
14 ~~December 31, 2011 without receiving the Sec-~~
15 ~~retary’s consent to reapply for admission under~~
16 ~~section 212(a)(9), shall not be eligible to file an~~
17 ~~application for registered provisional immigrant~~
18 ~~status.~~

19 ~~“(B) WAIVER.—The Secretary, in the Sec-~~
20 ~~retary’s sole and unreviewable discretion, may~~
21 ~~waive the application of subparagraph (A) on~~
22 ~~behalf of an alien if the alien—~~

23 ~~“(i) is the spouse or child of a United~~
24 ~~States citizen or lawful permanent resi-~~
25 ~~dent;~~

1 “(ii) is the parent of a child who is a
2 United States citizen or lawful permanent
3 resident;

4 “(iii) meets the requirements set forth
5 in clause (ii) and (iii) of section
6 245D(b)(1)(A); or

7 “(iv) meets the requirements set forth
8 in section 245D(b)(1)(A)(ii), is 16 years or
9 older on the date on which the alien ap-
10 plies for registered provisional immigrant
11 status, and was physically present in the
12 United States for an aggregate period of
13 not less than 3 years during the 6-year pe-
14 riod immediately preceding the date of the
15 enactment of the Border Security, Eco-
16 nomic Opportunity, and Immigration Mod-
17 ernization Act.

18 “(C) ELIGIBILITY.—Notwithstanding sub-
19 section (b)(2), section 241(a)(5), or a prior
20 order of exclusion, deportation, or removal, an
21 alien described in subparagraph (B) who is oth-
22 erwise eligible for registered provisional immi-
23 grant status may file an application for such
24 status.

1 ~~“(7) SUSPENSION OF REMOVAL DURING APPLI-~~
2 ~~CATION PERIOD.—~~

3 ~~“(A) PROTECTION FROM DETENTION OR~~
4 ~~REMOVAL.—A registered provisional immigrant~~
5 ~~may not be detained by the Secretary or re-~~
6 ~~moved from the United States, unless—~~

7 ~~“(i) the Secretary determines that—~~

8 ~~“(I) such alien is, or has become,~~
9 ~~ineligible for registered provisional im-~~
10 ~~migrant status under subsection~~
11 ~~(b)(3); or~~

12 ~~“(II) the alien’s registered provi-~~
13 ~~sional immigrant status has been re-~~
14 ~~voked under subsection (d)(2).~~

15 ~~“(B) ALIENS IN REMOVAL PRO-~~
16 ~~CEEDINGS.—Notwithstanding any other provi-~~
17 ~~sion of this Act—~~

18 ~~“(i) if the Secretary determines that~~
19 ~~an alien, during the period beginning on~~
20 ~~the date of the enactment of this section~~
21 ~~and ending on the last day of the applica-~~
22 ~~tion period described in paragraph (3), is~~
23 ~~in removal, deportation, or exclusion pro-~~
24 ~~ceedings before the Executive Office for~~
25 ~~Immigration Review and is prima facie eli-~~

1 gible for registered provisional immigrant
2 status under this section—

3 “~~(I)~~ the Secretary shall provide
4 the alien with the opportunity to file
5 an application for such status; and

6 “~~(II)~~ upon motion by the Sec-
7 retary and with the consent of the
8 alien or upon motion by the alien, the
9 Executive Office for Immigration Re-
10 view shall—

11 “~~(aa)~~ terminate such pro-
12 ceedings without prejudice to fu-
13 ture proceedings on any basis;
14 and

15 “~~(bb)~~ provide the alien a
16 reasonable opportunity to apply
17 for such status; and

18 “~~(ii)~~ if the Executive Office for Immi-
19 gration Review determines that an alien,
20 during the application period described in
21 paragraph ~~(3)~~, is in removal, deportation,
22 or exclusion proceedings before the Execu-
23 tive Office for Immigration Review and is
24 prima facie eligible for registered provi-

1 sional immigrant status under this sec-
2 tion—

3 “(I) the Executive Office of Im-
4 migration Review shall notify the Sec-
5 retary of such determination; and

6 “(II) if the Secretary does not
7 dispute the determination of prima
8 facie eligibility within 7 days after
9 such notification, the Executive Office
10 for Immigration Review, upon consent
11 of the alien, shall—

12 “(aa) terminate such pro-
13 ceedings without prejudice to fu-
14 ture proceedings on any basis;
15 and

16 “(bb) permit the alien a rea-
17 sonable opportunity to apply for
18 such status.

19 “(C) TREATMENT OF CERTAIN ALIENS.—

20 “(i) IN GENERAL.—If an alien who
21 meets the eligibility requirements set forth
22 in subsection (b) is present in the United
23 States and has been ordered excluded, de-
24 ported, or removed, or ordered to depart

1 voluntarily from the United States under
2 any provision of this Act—

3 “(I) notwithstanding such order
4 or section 241(a)(5), the alien may
5 apply for registered provisional immi-
6 grant status under this section; and

7 “(II) if the alien is granted such
8 status, the alien shall file a motion to
9 reopen the exclusion, deportation, re-
10 moval, or voluntary departure order,
11 which motion shall be granted unless
12 1 or more of the grounds of ineligi-
13 bility is established by clear and con-
14 vincing evidence.

15 “(ii) LIMITATIONS ON MOTIONS TO
16 REOPEN.—The limitations on motions to
17 reopen set forth in section 240(e)(7) shall
18 not apply to motions filed under clause
19 (i)(II).

20 “(D) PERIOD PENDING ADJUDICATION OF
21 APPLICATION.—

22 “(i) IN GENERAL.—During the period
23 beginning on the date on which an alien
24 applies for registered provisional immi-
25 grant status under paragraph (1) and the

1 date on which the Secretary makes a final
2 decision regarding such application, the
3 alien—

4 “(I) may receive advance parole
5 to reenter the United States if urgent
6 humanitarian circumstances compel
7 such travel;

8 “(II) may not be detained by the
9 Secretary or removed from the United
10 States unless the Secretary makes a
11 prima facie determination that such
12 alien is, or has become, ineligible for
13 registered provisional immigrant sta-
14 tus under subsection (b)(3);

15 “(III) shall not be considered un-
16 lawfully present for purposes of sec-
17 tion 212(a)(9)(B); and

18 “(IV) shall not be considered an
19 unauthorized alien (as defined in sec-
20 tion 274A(h)(3)).

21 “(ii) EVIDENCE OF APPLICATION FIL-
22 ING.—As soon as practicable after receiv-
23 ing each application for registered provi-
24 sional immigrant status, the Secretary
25 shall provide the applicant with a docu-

1 ment acknowledging the receipt of such ap-
2 plication.

3 “(iii) CONTINUING EMPLOYMENT.—

4 An employer who knows that an alien em-
5 ployee is an applicant for registered provi-
6 sional immigrant status or will apply for
7 such status once the application period
8 commences is not in violation of section
9 274A(a)(2) if the employer continues to
10 employ the alien pending the adjudication
11 of the alien employee’s application.

12 “(iv) EFFECT OF DEPARTURE.—Sec-
13 tion 101(g) shall not apply to an alien
14 granted—

15 “(I) advance parole under clause
16 (i)(I) to reenter the United States; or

17 “(II) registered provisional immi-
18 grant status.

19 “(8) SECURITY AND LAW ENFORCEMENT
20 CLEARANCES.—

21 “(A) BIOMETRIC AND BIOGRAPHIC
22 DATA.—The Secretary may not grant registered
23 provisional immigrant status to an alien or an
24 alien dependent spouse or child under this sec-
25 tion unless such alien submits biometric and

1 biographic data in accordance with procedures
2 established by the Secretary.

3 “(B) ALTERNATIVE PROCEDURES.—The
4 Secretary shall provide an alternative procedure
5 for applicants who cannot provide the standard
6 biometric data required under subparagraph
7 (A) because of a physical impairment.

8 “(C) CLEARANCES.—

9 “(i) DATA COLLECTION.—The Sec-
10 retary shall collect, from each alien apply-
11 ing for status under this section, biometric,
12 biographic, and other data that the Sec-
13 retary determines to be appropriate—

14 “(I) to conduct national security
15 and law enforcement clearances; and

16 “(II) to determine whether there
17 are any national security or law en-
18 forcement factors that would render
19 an alien ineligible for such status.

20 “(ii) PREREQUISITE.—The required
21 clearances described in clause (i)(I) shall
22 be completed before the alien may be
23 granted registered provisional immigrant
24 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); and

15 “(III) such status was not re-
16 voked by the Secretary for any reason.

17 “(B) EMPLOYMENT OR EDUCATION RE-
18 QUIREMENT.—Except as provided in subpara-
19 graphs (D) and (E) of section 245C(b)(3), an
20 alien may not be granted an extension of reg-
21 istered provisional immigrant status under this
22 paragraph unless the alien establishes that,
23 during the alien’s period of status as a reg-
24 istered provisional immigrant, the alien—

1 “(i)(I) was regularly employed
2 throughout the period of admission as a
3 registered provisional immigrant, allowing
4 for brief periods lasting not more than 60
5 days; and

6 “(II) is not likely to become a public
7 charge (as determined under section
8 212(a)(4)); or

9 “(ii) is able to demonstrate average
10 income or resources that are not less than
11 100 percent of the Federal poverty level
12 throughout the period of admission as a
13 registered provisional immigrant.

14 “(C) PAYMENT OF TAXES.—An applicant
15 may not be granted an extension of registered
16 provisional immigrant status under subpara-
17 graph (A)(ii) unless the applicant has satisfied
18 any applicable Federal tax liability in accord-
19 ance with paragraph (2).

20 “(10) 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 registered provisional immigrant status
25 under paragraph (1), or for an extension

1 of such status under paragraph (9)(A)(ii);
2 shall pay a processing fee to the Depart-
3 ment of Homeland Security in an amount
4 determined by the Secretary.

5 “(ii) RECOVERY OF COSTS.—The
6 processing fee authorized under clause (i)
7 shall be set at a level that is sufficient to
8 recover the full costs of processing the ap-
9 plication, including any costs incurred—

10 “(I) to adjudicate the application;

11 “(II) to take and process bio-
12 metrics;

13 “(III) to perform national secu-
14 rity and criminal checks, including ad-
15 judication;

16 “(IV) to prevent and investigate
17 fraud; and

18 “(V) to administer the collection
19 of such fee.

20 “(iii) AUTHORITY TO LIMIT FEES.—
21 The Secretary, by regulation, may—

22 “(I) limit the maximum proc-
23 essing fee payable under this subpara-
24 graph by a family, including spouses

1 and unmarried children younger than
2 21 years of age; and

3 “(H) exempt defined classes of
4 individuals, including individuals de-
5 scribed in section 245B(e)(13), from
6 the payment of the fee authorized
7 under clause (i).

8 “(B) DEPOSIT AND USE OF PROCESSING
9 FEES.—Fees collected under subparagraph
10 (A)(i)—

11 “(i) shall be deposited into the Com-
12 prehensive Immigration Reform Trust
13 Fund established under section 6(a)(1) of
14 the Border Security, Economic Oppor-
15 tunity, and Immigration Modernization
16 Act; and

17 “(ii) may be used for the purposes set
18 forth in section 6(a)(3)(B) of such Act.

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 who are 21 years of age or older and
24 are filing an application under this sub-

1 section shall pay a \$1,000 penalty to the
2 Department of Homeland Security.

3 “(ii) **INSTALLMENTS.**—The Secretary
4 shall establish a process for collecting pay-
5 ments required under clause (i) that—

6 “(I) requires the alien to pay
7 \$500 in conjunction with the submis-
8 sion of an application under this sub-
9 section for registered provisional im-
10 migrant status; and

11 “(II) allows the remaining \$500
12 to be paid in periodic installments
13 that shall be completed before the
14 alien may be granted an extension of
15 status under paragraph (9)(A)(ii).

16 “(iii) **DEPOSIT.**—Penalties collected
17 pursuant to this subparagraph shall be de-
18 posited into the Comprehensive Immigra-
19 tion Reform Trust Fund established under
20 section 6(a)(1) of the Border Security,
21 Economic Opportunity, and Immigration
22 Modernization Act.

23 “(11) **ADJUDICATION.**—

24 “(A) **FAILURE TO SUBMIT SUFFICIENT**
25 **EVIDENCE.**—The Secretary shall deny an appli-

1 eation submitted by an alien who fails to sub-
 2 mit—

3 “(i) requested initial evidence, includ-
 4 ing requested biometric data; or

5 “(ii) any requested additional evidence
 6 by the date required by the Secretary.

7 “(B) AMENDED APPLICATION.—An alien
 8 whose application for registered provisional im-
 9 migrant status is denied under subparagraph
 10 (A) may file an amended application for such
 11 status to the Secretary if the amended applica-
 12 tion—

13 “(i) is filed within the application pe-
 14 riod described in paragraph (3); and

15 “(ii) contains all the required informa-
 16 tion and fees that were missing from the
 17 initial application.

18 “(12) EVIDENCE OF REGISTERED PROVISIONAL
 19 IMMIGRANT STATUS.—

20 “(A) IN GENERAL.—The Secretary shall
 21 issue documentary evidence of registered provi-
 22 sional immigrant status to each alien whose ap-
 23 plication for such status has been approved.

1 “(B) DOCUMENTATION FEATURES.—Docu-
2 mentary evidence provided under subparagraph
3 (A)—

4 “(i) shall be machine-readable and
5 tamper-resistant, and shall contain a
6 digitized photograph;

7 “(ii) shall, during the alien’s author-
8 ized period of admission, and any exten-
9 sion of such authorized admission, serve as
10 a valid travel and entry document for the
11 purpose of applying for admission to the
12 United 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);

17 “(iv) shall indicate that the alien is
18 authorized to work in the United States
19 for up to 3 years; and

20 “(v) shall include such other features
21 and information as may be prescribed by
22 the Secretary.

23 “(13) DACA RECIPIENTS.—Unless the Secretary
24 determines that an alien who was granted Deferred
25 Action for Childhood Arrivals (referred to in this

1 paragraph as ‘DACA’) pursuant to the Secretary’s
2 memorandum of June 15, 2012, has engaged in con-
3 duct since the alien was granted DACA that would
4 make the alien ineligible for registered provisional
5 immigrant status; the Secretary may grant such sta-
6 tus to the alien if renewed national security and law
7 enforcement clearances have been completed on be-
8 half of the alien.

9 “(d) TERMS AND CONDITIONS OF REGISTERED PRO-
10 VISIONAL IMMIGRANT STATUS.—

11 “(1) CONDITIONS OF REGISTERED PROVISIONAL
12 IMMIGRANT STATUS.—

13 “(A) EMPLOYMENT.—Notwithstanding any
14 other provision of law, including section
15 241(a)(7), a registered provisional immigrant
16 shall be authorized to be employed in the
17 United States while in such status.

18 “(B) TRAVEL OUTSIDE THE UNITED
19 STATES.—A registered provisional immigrant
20 may travel outside of the United States and
21 may be admitted, if otherwise admissible, upon
22 returning to the United States without having
23 to obtain a visa if—

24 “(i) the alien is in possession of—

1 “(I) valid, unexpired document-
2 tary evidence of registered provisional
3 immigrant status that complies with
4 subsection (c)(12); or

5 “(II) a travel document, duly ap-
6 proved by the Secretary, that was
7 issued to the alien after the alien’s
8 original documentary evidence was
9 lost, stolen, or destroyed;

10 “(ii) the alien’s absence from the
11 United States did not exceed 180 days, un-
12 less the alien’s failure to timely return was
13 due to extenuating circumstances beyond
14 the alien’s control;

15 “(iii) the alien meets the requirements
16 for an extension as described in subclauses
17 (I) and (III) of paragraph (9)(A); and

18 “(iv) the alien establishes that the
19 alien is not inadmissible under subpara-
20 graph (A)(i), (A)(iii), (B), or (C) of section
21 212(a)(3).

22 “(C) ADMISSION.—An alien granted reg-
23 istered provisional immigrant status under this
24 section shall be considered to have been admit-
25 ted and lawfully present in the United States in

1 such status as of the date on which the alien's
2 application was filed.

3 “(D) CLARIFICATION OF STATUS.—An
4 alien granted registered provisional immigrant
5 status—

6 “(i) is lawfully admitted to the United
7 States; and

8 “(ii) may not be classified as a non-
9 immigrant or as an alien who has been
10 lawfully admitted for permanent residence.

11 “(2) REVOCATION.—

12 “(A) IN GENERAL.—The Secretary may re-
13 voke the status of a registered provisional immi-
14 grant at any time after providing appropriate
15 notice to the alien; and after the exhaustion or
16 waiver of all applicable administrative review
17 procedures under section 245E(e), if the
18 alien—

19 “(i) no longer meets the eligibility re-
20 quirements set forth in subsection (b);

21 “(ii) knowingly used documentation
22 issued under this section for an unlawful
23 or fraudulent purpose; or

24 “(iii) was absent from the United
25 States—

1 “(I) for any single period longer
2 than 180 days in violation of the re-
3 quirements set forth in paragraph
4 (1)(B)(ii); or

5 “(II) for more than 180 days in
6 the aggregate during any calendar
7 year, unless the alien’s failure to time-
8 ly return was due to extenuating cir-
9 cumstances beyond the alien’s control.

10 “(B) ADDITIONAL EVIDENCE.—In deter-
11 mining whether to revoke an alien’s status
12 under subparagraph (A), the Secretary may re-
13 quire the alien—

14 “(i) to submit additional evidence; or

15 “(ii) to appear for an interview.

16 “(C) INVALIDATION OF DOCUMENTA-
17 TION.—If an alien’s registered provisional im-
18 migrant status is revoked under subparagraph
19 (A), any documentation issued by the Secretary
20 to such alien under subsection (e)(12) shall
21 automatically be rendered invalid for any pur-
22 pose except for departure from the United
23 States.

24 “(3) INELIGIBILITY FOR PUBLIC BENEFITS.—

25 An alien who has been granted registered provisional

1 immigrant status under this section is not eligible
2 for any Federal means-tested public benefit (as such
3 term is defined in section 403 of the Personal Re-
4 sponsibility and Work Opportunity Reconciliation
5 Act of 1996 (8 U.S.C. 1613)).

6 ~~“(4) TREATMENT OF REGISTERED PROVISIONAL~~
7 ~~IMMIGRANTS.—A noncitizen granted registered pro-~~
8 ~~visional immigrant status under this section shall be~~
9 ~~considered lawfully present in the United States for~~
10 ~~all purposes while such noncitizen remains in such~~
11 ~~status, except that the noncitizen—~~

12 ~~“(A) is not entitled to the premium assist-~~
13 ~~ance tax credit authorized under section 36B of~~
14 ~~the Internal Revenue Code of 1986;~~

15 ~~“(B) shall be subject to the rules applica-~~
16 ~~ble to individuals not lawfully present that are~~
17 ~~set forth in subsection (e) of such section; and~~

18 ~~“(C) shall be subject to the rules applicable~~
19 ~~to individuals not lawfully present that are set~~
20 ~~forth in section 1402(e) of the Patient Protec-~~
21 ~~tion and Affordable Care Act (42 U.S.C.~~
22 ~~18071).~~

23 ~~“(5) ASSIGNMENT OF SOCIAL SECURITY NUM-~~
24 ~~BER.—~~

1 “(A) IN GENERAL.—The Commissioner of
2 Social Security, in coordination with the Sec-
3 retary, shall implement a system to allow for
4 the assignment of a Social Security number and
5 the issuance of a Social Security card to each
6 alien who has been granted registered provi-
7 sional immigrant status under this section.

8 “(B) USE OF INFORMATION.—The Sec-
9 retary shall provide the Commissioner of Social
10 Security with information from the applications
11 filed by aliens granted registered provisional im-
12 migrant status under this section and such
13 other information as the Commissioner deter-
14 mines to be necessary to assign a Social Secu-
15 rity account number to such aliens. The Com-
16 missioner may use information received from
17 the Secretary under this subparagraph to as-
18 sign Social Security account numbers to such
19 aliens and to administer the programs of the
20 Social Security Administration. The Commis-
21 sioner may maintain, use, and disclose such in-
22 formation only as permitted under section 552a
23 of title 5, United States Code (commonly known
24 as the Privacy Act of 1974) and other applica-
25 ble Federal laws.

1 “(e) DISSEMINATION OF INFORMATION ON REG-
2 ISTERED PROVISIONAL IMMIGRANT PROGRAM.—As soon
3 as practicable after the date of the enactment of the Bor-
4 der Security, Economic Opportunity, and Immigration
5 Modernization Act, the Secretary, in cooperation with en-
6 tities approved by the Secretary, and in accordance with
7 a plan adopted by the Secretary, shall broadly dissemi-
8 nate, in the most common languages spoken by aliens who
9 would qualify for registered provisional immigrant status
10 under this section, to television, radio, print, and social
11 media to which such aliens would likely have access—

12 “(1) the procedures for applying for such sta-
13 tus;

14 “(2) the terms and conditions of such status;
15 and

16 “(3) the eligibility requirements for such sta-
17 tus.”.

18 (b) ENLISTMENT IN THE ARMED FORCES.—Section
19 504(b)(1) of title 10, United States Code, is amended by
20 adding at the end the following:

21 “(D) An alien who has been granted registered
22 provisional immigrant status under section 245B of
23 the Immigration and Nationality Act.”.

1 **SEC. 2102. ADJUSTMENT OF STATUS OF REGISTERED PRO-**
2 **VISIONAL IMMIGRANTS.**

3 (a) **IN GENERAL.**—Chapter 5 of title II (8 U.S.C.
4 1255 et seq.) is amended by inserting after section 245B,
5 as added by section 2101 of this title, the following:

6 **“SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PRO-**
7 **VISIONAL IMMIGRANTS.**

8 “(a) **IN GENERAL.**—Subject to section 245E(d) and
9 section 2302(c)(3) of the Border Security, Economic Op-
10 portunity, and Immigration Modernization Act, the Sec-
11 retary of Homeland Security (referred to in this section
12 as the ‘Secretary’) may adjust the status of a registered
13 provisional immigrant to that of an alien lawfully admitted
14 for permanent residence if the registered provisional immi-
15 grant satisfies the eligibility requirements set forth in sub-
16 section (b).

17 “(b) **ELIGIBILITY REQUIREMENTS.**—

18 “(1) **REGISTERED PROVISIONAL IMMIGRANT**
19 **STATUS.**—

20 “(A) **IN GENERAL.**—The alien was granted
21 registered provisional immigrant status under
22 section 245B and remains eligible for such sta-
23 tus.

24 “(B) **CONTINUOUS PHYSICAL PRESENCE.**—
25 The alien establishes, to the satisfaction of the
26 Secretary, that the alien was not continuously

1 absent from the United States for more than
2 180 days in any calendar year during the pe-
3 riod of admission as a registered provisional im-
4 migrant, unless the alien's absence was due to
5 extenuating circumstances beyond the alien's
6 control.

7 “(C) MAINTENANCE OF WAIVERS OF AD-
8 MISSIBILITY.—The grounds of inadmissibility
9 set forth in section 212(a) that were previously
10 waived for the alien or made inapplicable under
11 section 245B(b) shall not apply for purposes of
12 the alien's adjustment of status under this sec-
13 tion.

14 “(D) PENDING REVOCATION PRO-
15 CEEDINGS.—If the Secretary has notified the
16 applicant that the Secretary intends to revoke
17 the applicant's registered provisional immigrant
18 status under section 245B(d)(2)(A), the Sec-
19 retary may not approve an application for ad-
20 justment of status under this section unless the
21 Secretary makes a final determination not to
22 revoke the applicant's status.

23 “(2) PAYMENT OF TAXES.—

24 “(A) IN GENERAL.—An applicant may not
25 file an application for adjustment of status

1 under this section unless the applicant has sat-
2 isfied any applicable Federal tax liability.

3 “(B) DEFINITION OF APPLICABLE FED-
4 ERAL TAX LIABILITY.—In subparagraph (A),
5 the term ‘applicable Federal tax liability’ means
6 all assessed Federal income taxes since the date
7 on which the applicant was authorized to work
8 in the United States as a registered provisional
9 immigrant under section 245B(a).

10 “(C) COMPLIANCE.—The applicant may
11 demonstrate compliance with subparagraph (A)
12 by submitting such documentation as the Sec-
13 retary, in consultation with the Secretary of the
14 Treasury, may require by regulation.

15 “(3) EMPLOYMENT OR EDUCATION REQUIRE-
16 MENT.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraphs (D) and (E), an alien applying
19 for adjustment of status under this section shall
20 establish that, during his or her period of status
21 as a registered provisional immigrant, he or
22 she—

23 “(i)(I) was regularly employed
24 throughout the period of admission as a
25 registered provisional immigrant, allowing

1 for brief periods lasting not more than 60
2 days; and

3 “(H) is not likely to become a public
4 charge (as determined under section
5 212(a)(4)); or

6 “(ii) can demonstrate average income
7 or resources that are not less than 125
8 percent of the Federal poverty level
9 throughout the period of admission as a
10 registered provisional immigrant.

11 “(B) EVIDENCE OF EMPLOYMENT.—

12 “(i) DOCUMENTS.—An alien may sat-
13 isfy the employment requirement under
14 subparagraph (A)(i) by submitting, to the
15 Secretary, records that—

16 “(I) establish, by the preponder-
17 ance of the evidence, compliance with
18 such employment requirement; and

19 “(II) have been maintained by
20 the Social Security Administration,
21 the Internal Revenue Service, or any
22 other Federal, State, or local govern-
23 ment agency.

24 “(ii) OTHER DOCUMENTS.—An alien
25 who is unable to submit the records de-

1 scribed in clause (i) may satisfy the em-
2 ployment or education requirement under
3 subparagraph (A) by submitting to the
4 Secretary at least 2 types of reliable docu-
5 ments not described in clause (i) that pro-
6 vide evidence of employment or education,
7 including—

8 “(I) bank records;

9 “(II) business records;

10 “(III) employer records;

11 “(IV) records of a labor union,
12 day labor center, or organization that
13 assists workers in employment;

14 “(V) sworn affidavits from non-
15 relatives who have direct knowledge of
16 the alien’s work or education, that
17 contain—

18 “(aa) the name, address,
19 and telephone number of the affi-
20 ant;

21 “(bb) the nature and dura-
22 tion of the relationship between
23 the affiant and the alien; and

24 “(cc) other verification or
25 information;

1 “(VI) remittance records; and

2 “(VII) school records from insti-
3 tutions described in subparagraph
4 (D).

5 “(iii) ADDITIONAL DOCUMENTS AND
6 RESTRICTIONS.—The Secretary may—

7 “(I) designate additional docu-
8 ments that may be used to establish
9 compliance with the requirement
10 under subparagraph (A); and

11 “(II) set such terms and condi-
12 tions on the use of affidavits as may
13 be necessary to verify and confirm the
14 identity of any affiant or to otherwise
15 prevent fraudulent submissions.

16 “(C) SATISFACTION OF EMPLOYMENT RE-
17 QUIREMENT.—An alien may not be required to
18 satisfy the employment requirements under this
19 section with a single employer.

20 “(D) EDUCATION PERMITTED.—An alien
21 may satisfy the requirement under subpara-
22 graph (A), in whole or in part, by providing evi-
23 dence of full-time attendance at—

24 “(i) an institution of higher education
25 (as defined in section 102(a) of the Higher

1 Education Act of 1965 (20 U.S.C.
2 1002(a));

3 “(ii) a secondary school (as defined in
4 section 9101 of the Elementary and Sec-
5 ondary Education Act of 1965 (20 U.S.C.
6 7801));

7 “(iii) an education, literacy, or career
8 training program (including vocational
9 training) that is designed to lead to place-
10 ment in postsecondary education, job train-
11 ing, or employment through which the
12 alien is working toward such placement; or

13 “(iv) an education program assisting
14 students either in obtaining a regular high
15 school diploma or its recognized equivalent
16 under state law (including a certificate of
17 completion, certificate of attendance, or al-
18 ternate award); or in passing a General
19 Educational Development exam or other
20 equivalent State-authorized exam.

21 “(E) AUTHORIZATION OF EXCEPTIONS
22 AND WAIVERS.—

23 “(i) EXCEPTIONS BASED ON AGE OR
24 DISABILITY.—The employment and edu-

1 eation requirements under this paragraph
2 shall not apply to any alien who —

3 “(I) is younger than 21 years of
4 age on the date on which the alien
5 files an application for the first exten-
6 sion of the initial period of authorized
7 admission as a registered provisional
8 immigrant;

9 “(II) is at least 60 years of age
10 on the date on which the alien files an
11 application described in subelause (II)
12 or at least 65 years of age on the date
13 on which the alien’s status is adjusted
14 under this section; or

15 “(III) has a physical or mental
16 disability (as defined in section 3(2)
17 of the Americans with Disabilities Act
18 of 1990 (42 U.S.C. 12102(2))) or as
19 a result of pregnancy if such condition
20 is evidenced by the submission of doe-
21 mentation prescribed by the Sec-
22 retary.

23 “(ii) FAMILY EXCEPTIONS.—The em-
24 ployment and education requirements
25 under this paragraph shall not apply to

1 any alien who is a dependent registered
2 provisional immigrant under subsection
3 (b)(5).

4 “(iii) TEMPORARY EXCEPTIONS.—The
5 employment and education requirements
6 under this paragraph shall not apply dur-
7 ing any period during which the alien—

8 “(I) was on medical leave, mater-
9 nity leave, or other employment leave
10 authorized by Federal law, State law,
11 or the policy of the employer;

12 “(II) is or was the primary care-
13 taker of a child or another person who
14 requires supervision or is unable to
15 care for himself or herself; or

16 “(III) was unable to work due to
17 circumstances outside the control of
18 the alien.

19 “(iv) WAIVER.—The Secretary may
20 waive the employment or education re-
21 quirements under this paragraph with re-
22 spect to any individual alien who dem-
23 onstrates extreme hardship to himself or
24 herself or to a spouse, parent, or child who

1 is a United States citizen or lawful perma-
2 nent resident.

3 “(4) ENGLISH SKILLS.—

4 “(A) IN GENERAL.—Except as provided
5 under subparagraph (C), a registered provi-
6 sional immigrant who is 16 years of age or
7 older shall establish that he or she—

8 “(i) meets the requirements set forth
9 in section 312; or

10 “(ii) is satisfactorily pursuing a
11 course of study, pursuant to standards es-
12 tablished by the Secretary of Education, in
13 consultation with the Secretary, to achieve
14 an understanding of English and knowl-
15 edge and understanding of the history and
16 Government of the United States, as de-
17 scribed in section 312(a).

18 “(B) RELATION TO NATURALIZATION EX-
19 AMINATION.—A registered provisional immi-
20 grant who demonstrates that he or she meets
21 the requirements set forth in section 312 may
22 be considered to have satisfied such require-
23 ments for purposes of becoming naturalized as
24 a citizen of the United States.

25 “(C) EXCEPTIONS.—

1 “(i) MANDATORY.—Subparagraph (A)
2 shall not apply to any person who is unable
3 to comply with the requirements under
4 that subparagraph because of a physical or
5 developmental disability or mental impair-
6 ment.

7 “(ii) DISCRETIONARY.—The Secretary
8 may waive all or part of subparagraph (A)
9 for a registered provisional immigrant who
10 is 70 years of age or older on the date on
11 which an application is filed for adjust-
12 ment of status under this section.

13 “(5) MILITARY SELECTIVE SERVICE.—The alien
14 shall provide proof of registration under the Military
15 Selective Service Act (50 U.S.C. App. 451 et seq.)
16 if the alien is subject to such registration.

17 “(e) APPLICATION PROCEDURES.—

18 “(1) IN GENERAL.—Beginning on the date de-
19 scribed in paragraph (2), a registered provisional im-
20 migrant, or a registered provisional immigrant de-
21 pendent, who meets the eligibility requirements set
22 forth in subsection (b) may apply for adjustment of
23 status to that of an alien lawfully admitted for per-
24 manent residence by submitting an application to
25 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 proe-
21 cessing fee payable under this subpara-
22 graph by a family, including spouses
23 and children; and

1 \$1,000 penalty to the Secretary unless the
2 alien meets the requirements under section
3 245D(b).

4 “(ii) INSTALLMENTS.—The Secretary
5 shall establish a process for collecting pay-
6 ments required under clause (i) through
7 periodic installments.

8 “(iii) DEPOSIT, ALLOCATION, AND
9 SPENDING OF PENALTIES.—Penalties col-
10 lected under this subparagraph—

11 “(I) shall be deposited into the
12 Comprehensive Immigration Trust
13 Fund established under section
14 6(a)(1) of the Border Security, Eco-
15 nomic Opportunity, and Immigration
16 Modernization Act; and

17 “(II) may be used for the pur-
18 poses set forth in section 6(a)(3)(B)
19 of such Act.”.

20 (b) LIMITATION ON REGISTERED PROVISIONAL IMMI-
21 GRANTS.—An alien admitted as a registered provisional
22 immigrant may only adjust status to an alien lawfully ad-
23 mitted for permanent resident status under section 2302
24 of this Act.

1 (c) **NATURALIZATION.**—Section 319 (8 U.S.C. 1430)
2 is amended—

3 (1) in the section heading, by striking “**AND**
4 **EMPLOYEES OF CERTAIN NONPROFIT ORGANI-**
5 **ZATIONS**” and inserting “**, EMPLOYEES OF CER-**
6 **TAIN NONPROFIT ORGANIZATIONS, AND OTHER**
7 **LONG-TERM LAWFUL RESIDENTS**”; and

8 (2) by adding at the end the following:

9 “(f) Any lawful permanent resident who was lawfully
10 present in the United States and eligible for work author-
11 ization for not less than 10 years before becoming a lawful
12 permanent resident may be naturalized upon compliance
13 with all the requirements under this title except the provi-
14 sions of section 316(a)(1) if such person, immediately pre-
15 ceding the date on which the person filed an application
16 for naturalization—

17 “(1) has resided continuously within the United
18 States, after being lawfully admitted for permanent
19 residence, for at least 3 years;

20 “(2) during the 3-year period immediately pre-
21 ceding such filing date, has been physically present
22 in the United States for periods totaling at least 50
23 percent of such period; and

24 “(3) has resided within the State or in the ju-
25 risdiction of the U.S. Citizenship and Immigration

1 Services field office in the United States in which
2 the applicant filed such application for at least 3
3 months.”.

4 **SEC. 2103. THE DREAM ACT.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Development, Relief, and Education for Alien Minors Act
7 of 2013” or the “DREAM Act 2013”.

8 (b) **ADJUSTMENT OF STATUS FOR CERTAIN ALIENS
9 WHO ENTERED THE UNITED STATES AS CHILDREN.**—
10 Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended
11 by inserting after section 245C, as added by section 2102
12 of this title, the following:

13 **“SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS
14 WHO ENTERED THE UNITED STATES AS CHIL-
15 DREN.**

16 “(a) **DEFINITIONS.**—In this section:

17 “(1) **INSTITUTION OF HIGHER EDUCATION.**—

18 The term ‘institution of higher education’ has the
19 meaning given such term in section 102 of the High-
20 er Education Act of 1965 (20 U.S.C. 1002), except
21 that the term does not include institutions described
22 in subsection (a)(1)(C) of such section.

23 “(2) **SECRETARY.**—The term ‘Secretary’ means
24 the Secretary of Homeland Security.

1 “(3) UNIFORMED SERVICES.—The term ‘Uni-
2 formed Services’ has the meaning given the term
3 ‘uniformed services’ in section 101(a)(5) of title 10,
4 United States Code.

5 “(b) ADJUSTMENT OF STATUS FOR CERTAIN ALIENS
6 WHO ENTERED THE UNITED STATES AS CHILDREN.—

7 “(1) REQUIREMENTS.—

8 “(A) IN GENERAL.—The Secretary of
9 Homeland Security may adjust the status of a
10 registered provisional immigrant to the status
11 of a lawful permanent resident if the immigrant
12 demonstrates that he or she—

13 “(i) has been a registered provisional
14 immigrant for at least 5 years;

15 “(ii) was younger than 16 years of
16 age on the date on which the alien initially
17 entered the United States;

18 “(iii) has earned a high school di-
19 ploma or obtained a general education de-
20 velopment certificate in the United States;

21 “(iv)(I) has acquired a degree from an
22 institution of higher education or has com-
23 pleted at least 2 years, in good standing,
24 in a program for a bachelor’s degree or
25 higher degree in the United States; or

1 “(H) has served in the Uniformed
2 Services for at least 4 years and, if dis-
3 charged, received an honorable discharge;
4 and

5 “(v) has provided a list of each sec-
6 ondary school (as that term is defined in
7 section 9101 of the Elementary and Sec-
8 ondary Education Act of 1965 (20 U.S.C.
9 7801)) that the alien attended in the
10 United States.

11 “(B) HARDSHIP EXCEPTION.—

12 “(i) IN GENERAL.—The Secretary
13 may adjust the status of a registered provi-
14 sional immigrant to the status of a lawful
15 permanent resident if the alien—

16 “(I) satisfies the requirements
17 under clauses (i), (ii), (iii), and (v) of
18 subparagraph (A); and

19 “(II) demonstrates compelling
20 circumstances for the inability to sat-
21 isfy the requirement under subpara-
22 graph (A)(iv).

23 “(C) CITIZENSHIP REQUIREMENT.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), the Secretary may not

1 adjust the status of an alien to lawful per-
2 manent resident status under this section
3 unless the alien demonstrates that the
4 alien satisfies the requirements of section
5 312(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1423(a)).

7 “(ii) EXCEPTION.—Clause (i) shall
8 not apply to an alien whose physical or de-
9 velopmental disability or mental impair-
10 ment prevents the alien from meeting the
11 requirements such section.

12 “(D) SUBMISSION OF BIOMETRIC AND BIO-
13 GRAPHIC DATA.—The Secretary may not adjust
14 the status of an alien to lawful permanent resi-
15 dent status unless the alien—

16 “(i) submits biometric and biographic
17 data, in accordance with procedures estab-
18 lished by the Secretary; or

19 “(ii) complies with an alternative pro-
20 cedure prescribed by the Secretary, if the
21 alien is unable to provide such biometric
22 data because of a physical impairment.

23 “(E) BACKGROUND CHECKS.—

24 “(i) REQUIREMENT FOR BACKGROUND
25 CHECKS.—The Secretary shall utilize bio-

1 metric, biographic, and other data that the
2 Secretary determines appropriate—

3 “(I) to conduct security and law
4 enforcement background checks of an
5 alien applying for lawful permanent
6 resident status under this section; and

7 “(II) to determine whether there
8 is any criminal, national security, or
9 other factor that would render the
10 alien ineligible for such status.

11 “(ii) COMPLETION OF BACKGROUND
12 CHECKS.—The Secretary may not adjust
13 an alien’s status to the status of a lawful
14 permanent resident under this subsection
15 until the security and law enforcement
16 background checks required under clause
17 (i) have been completed with respect to the
18 alien, to the satisfaction of the Secretary.

19 “(2) APPLICATION FOR LAWFUL PERMANENT
20 RESIDENT STATUS.—

21 “(A) IN GENERAL.—A registered provi-
22 sional immigrant seeking lawful permanent resi-
23 dent status shall file an application for such
24 status in such manner as the Secretary of
25 Homeland Security may require.

1 “(B) ADJUDICATION.—

2 “(i) IN GENERAL.—The Secretary
3 shall evaluate each application filed by a
4 registered provisional immigrant under this
5 paragraph to determine whether the alien
6 meets the requirements under paragraph
7 (1).

8 “(ii) ADJUSTMENT OF STATUS IF FA-
9 VORABLE DETERMINATION.—If the Sec-
10 retary determines that the alien meets the
11 requirements under paragraph (1), the
12 Secretary shall notify the alien of such de-
13 termination and adjust the status of the
14 alien to lawful permanent resident status,
15 effective as of the date of such determina-
16 tion.

17 “(iii) ADVERSE DETERMINATION.—If
18 the Secretary determines that the alien
19 does not meet the requirements under
20 paragraph (1), the Secretary shall notify
21 the alien of such determination.

22 “(C) DACA RECIPIENTS.—The Secretary
23 may adopt streamlined procedures for appli-
24 cants for adjustment to lawful permanent resi-
25 dent status under this section who were granted

1 Deferred Action for Childhood Arrivals (re-
2 ferred to in this paragraph as ‘DACA’) pursu-
3 ant to the Secretary’s memorandum of June
4 15, 2012.

5 “(3) TREATMENT FOR PURPOSES OF NATU-
6 RALIZATION.—

7 “(A) IN GENERAL.—An alien granted law-
8 ful permanent resident status under this sub-
9 section shall be considered, for purposes of title
10 III—

11 “(i) to have been lawfully admitted for
12 permanent residence; and

13 “(ii) to have been in the United
14 States as an alien lawfully admitted to the
15 United States for permanent residence
16 during the period the alien was a reg-
17 istered provisional immigrant.

18 “(B) LIMITATION ON APPLICATION FOR
19 NATURALIZATION.—An alien may not apply for
20 naturalization while the alien is a registered
21 provisional immigrant.”.

22 (c) EXEMPTION FROM NUMERICAL LIMITATIONS.—

23 Section 201(b) (8 U.S.C. 1151(b)(1)) is amended—

24 (1) by redesignating subparagraph (E) as sub-
25 paragraph (F); and

1 (2) by inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) Aliens whose status is adjusted to perma-
4 nent resident status under section 245C or 245D.”.

5 (d) RESTORATION OF STATE OPTION TO DETER-
6 MINE RESIDENCY FOR PURPOSES OF HIGHER EDU-
7 CATION.—

8 (1) REPEAL.—Section 505 of the Illegal Immi-
9 gration Reform and Immigrant Responsibility Act of
10 1996 (8 U.S.C. 1623) is repealed.

11 (2) EFFECTIVE DATE.—The repeal under para-
12 graph (1) shall take effect as if included in the origi-
13 nal enactment of the Illegal Immigration Reform
14 and Immigrant Responsibility Act of 1996 (division
15 C of Public Law 104–208).

16 **SEC. 2104. ADDITIONAL REQUIREMENTS.**

17 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
18 1255 et seq.) is amended by inserting after section 245C,
19 as added by section 2102 of this title, the following:

20 **“SEC. 245E. ADDITIONAL REQUIREMENTS RELATING TO**
21 **REGISTERED PROVISIONAL IMMIGRANTS**
22 **AND OTHERS.**

23 “(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 of Homeland Security to examine in-
17 dividual applications that have been filed under
18 either such section.

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, compo-

1 nent of the Department of Homeland Security,
2 court, or grand jury if such information is re-
3 quested by such entity, consistent with law, in
4 connection with—

5 “(i) a criminal investigation or pros-
6 ecution of any matter not related to the
7 applicant’s immigration status; or

8 “(ii) a national security investigation
9 or prosecution; and

10 “(B) an official coroner for purposes of af-
11 firmatively identifying a deceased individual,
12 whether or not the death of such individual re-
13 sulted from a crime.

14 “(3) AUDITING AND EVALUATION OF INFORMA-
15 TION.—The Secretary may—

16 “(A) audit and evaluate information fur-
17 nished as part of any application filed under
18 section 245B, 245C, or 245D for purposes of
19 identifying immigration fraud or fraud schemes;
20 and

21 “(B) use any evidence detected by means
22 of audits and evaluations for purposes of inves-
23 tigating, prosecuting, referring for prosecution,
24 or denying or terminating immigration benefits.

25 “(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 Homeland Security of such
12 alien’s prima facie eligibility determination. Employ-
13 ers that provide unauthorized aliens with copies of
14 employment records or other evidence of employment
15 pursuant to an application for registered provisional
16 immigrant status shall not be subject to civil and
17 criminal liability pursuant to section 274A for em-
18 ploying such unauthorized 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 or 245D shall be conducted solely in accordance with
3 this subsection.

4 ~~“(2) ADMINISTRATIVE APPELLATE REVIEW.—~~

5 ~~“(A) ESTABLISHMENT OF ADMINISTRATIVE APPELLATE AUTHORITY.—~~The Secretary
6 of Homeland Security shall establish or des-
7 ignate an appellate authority to provide for a
8 single level of administrative appellate review of
9 a determination with respect to applications for,
10 or revocation of, status under sections 245B,
11 245C, and 245D.

12 ~~“(B) SINGLE APPEAL FOR EACH ADMINIS-~~
13 ~~TRATIVE DECISION.—~~

14 ~~“(i) IN GENERAL.—~~An alien in the
15 United States whose application for status
16 under section 245B, 245C, or 245D has
17 been denied or revoked may file with the
18 Secretary not more than 1 appeal of each
19 decision to deny or revoke such status.
20

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 ~~vaey 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(e),
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, or 245D is denied, or is
22 revoked after the exhaustion of administrative appel-
23 late review under section 245E(e), the alien may
24 seek review of such decision, in accordance with
25 chapter 7 of title 5, United States Code, before the

1 United States district court for the district in which
2 the person resides.

3 ~~“(2) STATUS DURING REVIEW.—~~While a review
4 described in paragraph (1) is pending—

5 ~~“(A) the alien shall not be deemed to ac-~~
6 ~~curse unlawful presence for purposes of section~~
7 ~~212(a)(9);~~

8 ~~“(B) any unexpired grant of voluntary de-~~
9 ~~parture under section 240B shall be tolled; and~~

10 ~~“(C) the court shall have the discretion to~~
11 ~~stay the execution of any order of exclusion, de-~~
12 ~~portation, or removal.~~

13 ~~“(3) REVIEW AFTER REMOVAL PRO-~~
14 ~~CEEDINGS.—~~An alien may seek judicial review of a
15 denial or revocation of approval of the alien’s appli-
16 cation under section 245B, 245C, or 245D in the
17 appropriate United States court of appeal in con-
18 junction with the judicial review of an order of re-
19 moval, deportation, or exclusion if the validity of the
20 denial has not been upheld in a prior judicial pro-
21 ceeding under paragraph (1).

22 ~~“(4) STANDARD FOR JUDICIAL REVIEW.—~~

23 ~~“(A) BASIS.—~~Judicial review of a denial,
24 or revocation of an approval, of an application
25 under section 245B, 245C, or 245D shall be

1 based upon the administrative record estab-
2 lished at the time of the review.

3 “(B) AUTHORITY TO REMAND.—The re-
4 viewing court may remand a case under this
5 subsection to the Secretary of Homeland Secu-
6 rity for consideration of additional evidence if
7 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 of Homeland Security in

1 the operation or implementation of the Border
2 Security, Economic Opportunity, and Immigra-
3 tion Modernization Act, or the amendments
4 made by such Act, that is arbitrary, capricious,
5 or otherwise contrary to 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 of Homeland Se-

1 curity to implement such sections, violates the
2 Constitution of the United States or is other-
3 wise in violation of law is available exclusively
4 in an action instituted in United States District
5 Court in accordance with the procedures pre-
6 scribed in this paragraph.

7 “(B) SAVINGS PROVISION.—Except as pro-
8 vided in subparagraph (C), nothing in subpara-
9 graph (A) may be construed to preclude an ap-
10 plicant under 245B, 245C, or 245D from as-
11 serting that an action taken or a decision made
12 by the Secretary with respect to the applicant’s
13 status was contrary to law.

14 “(C) CLASS ACTIONS.—Any claim de-
15 scribed in subparagraph (A) that is brought as
16 a class action shall be brought in conformity
17 with—

18 “(i) the Class Action Fairness Act of
19 2005 (Public Law 109–2); and

20 “(ii) the Federal Rules of Civil Proce-
21 dure.

22 “(D) PRECLUSIVE EFFECT.—The final dis-
23 position of any claim brought under subpara-
24 graph (A) shall be preclusive of any such claim

1 asserted by the same individual in a subsequent
2 proceeding under this subsection.

3 “(E) EXHAUSTION AND STAY OF PRO-
4 CEEDINGS.—

5 “(i) IN GENERAL.—No claim brought
6 under this paragraph shall require the
7 plaintiff to exhaust administrative rem-
8 edies under section 245E(e).

9 “(ii) STAY AUTHORIZED.—Nothing in
10 this paragraph may be construed to pre-
11 vent the court from staying proceedings
12 under this paragraph to permit the Sec-
13 retary to evaluate an allegation of an un-
14 written policy or practice or to take correc-
15 tive action. In determining whether to
16 issue such a stay, the court shall take into
17 account any harm the stay may cause to
18 the claimant.”.

19 (e) RULE OF CONSTRUCTION.—Section 244(h) shall
20 not limit the authority of the Secretary to adjust the sta-
21 tus of an alien under section 245C or 245D of the Immi-
22 gration and Nationality Act, as added by this subtitle.

23 (d) EFFECT OF FAILURE TO REGISTER ON ELIGI-
24 BILITY FOR IMMIGRATION BENEFITS.—Failure to comply
25 with section 264.1(f) of title 8, Code of Federal Regula-

1 tions or with removal orders or voluntary departure agree-
 2 ments based on such section for acts committed before the
 3 date of the enactment of this Act shall not affect the eligi-
 4 bility of an alien to apply for a benefit under the Immigra-
 5 tion and Nationality Act (8 U.S.C. 1101 et seq.).

6 (c) ~~CLERICAL AMENDMENT.~~—The table of contents
 7 is amended by inserting after the item relating to section
 8 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.”.

9 **SEC. 2105. CRIMINAL PENALTY.**

10 (a) ~~IN GENERAL.~~—Chapter 69 of title 18, United
 11 States Code, is amended by adding at the end the fol-
 12 lowing:

13 **“§ 1430. Improper use of information relating to reg-**
 14 **istered provisional immigrant applica-**
 15 **tions**

16 “Any person who knowingly uses, publishes, or per-
 17 mits information described in section 245E(a) of the Im-
 18 migration and Nationality Act to be examined in violation
 19 of such section shall be fined not more than \$10,000.”.

20 (b) ~~DEPOSIT OF FINES.~~—All criminal penalties col-
 21 lected under section 1430 of title 18, United States Code,
 22 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 public or private nonprofit organizations that will use the
12 funding to assist eligible applicants under section 245B,
13 245C, or 245D of the Immigration and Nationality Act
14 by providing them with the services described in sub-
15 section (e).

16 (b) ~~ELIGIBLE PUBLIC OR PRIVATE NON-PROFIT OR-~~
17 ~~GANIZATION.~~—The term “eligible public or private non-
18 profit” means a nonprofit, tax-exempt organization, in-
19 cluding a community, faith-based or other immigrant-serv-
20 ing organization, whose staff has demonstrated qualifica-
21 tions, experience, and expertise in providing quality serv-
22 ices to immigrants, refugees, persons granted asylum, or
23 persons applying for such statuses.

1 ~~(e) 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, particularly indi-
8 viduals potentially eligible for such status;

9 ~~(2)~~ assistance, within the scope of authorized
10 practice of immigration law, to individuals submit-
11 ting applications for registered provisional immi-
12 grant status, including—

13 ~~(A)~~ screening prospective applicants to as-
14 sess their eligibility for such status;

15 ~~(B)~~ completing applications and petitions,
16 including providing assistance in obtaining the
17 requisite documents and supporting evidence;

18 ~~(C)~~ applying for any waivers for which ap-
19 plicants and qualifying family members may be
20 eligible; and

21 ~~(D)~~ providing any other assistance that the
22 Secretary or grantees consider useful or nec-
23 essary to apply for registered provisional immi-
24 grant 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 of the Im-
5 migration 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(c)(1) of the So-
10 cial Security Act (42 U.S.C. 408(c)(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; or

22 ~~(B)~~ the involvement of the parent in (in-
23 cluding detention pursuant to) an immigration
24 proceeding, unless the parent is unfit or unwill-
25 ing to be a parent of the child.

1 (2) ~~CONDITIONS.—~~Before a State may file to
2 terminate the parental rights under such section
3 ~~475(5)(E)—~~

4 ~~(A) the State (or the county or other polit-~~
5 ~~ical subdivision of the State, as applicable) shall~~
6 ~~make reasonable efforts—~~

7 ~~(i) to identify, locate, and contact,~~
8 ~~through the diplomatic or consular offices~~
9 ~~of the country to which the parent was re-~~
10 ~~moved or in which a parent or relative re-~~
11 ~~sides—~~

12 ~~(I) any parent of the child who~~
13 ~~has been removed from the United~~
14 ~~States; and~~

15 ~~(II) if possible, any potential~~
16 ~~adult relative of the child (as de-~~
17 ~~scribed in section 471(a)(29));~~

18 ~~(ii) to notify such parent or relative of~~
19 ~~the intent of the State (or the county or~~
20 ~~other political subdivision of the State, as~~
21 ~~applicable) to file (or to join in the filing~~
22 ~~of) a petition referred to in paragraph (1);~~
23 ~~or~~

24 ~~(iii) to reunify the child with any such~~
25 ~~parent or relative; and~~

1 ~~(B)~~ appropriate services have been pro-
 2 vided (and documented) to the parent or rel-
 3 ative.

4 ~~(3)~~ CONFORMING AMENDMENT.—Section
 5 475(5)(E)(ii) of the Social Security Act (42 U.S.C.
 6 675(5)(E)) is amended by inserting “, including the
 7 reason set forth in section 2107(b)(1) of the Border
 8 Security, Economic Opportunity, and Immigration
 9 Modernization Act” after “child”.

10 ~~(c)~~ CHILDREN SEPARATED FROM PARENTS AND
 11 CAREGIVERS.—

12 ~~(1)~~ STATE PLAN FOR FOSTER CARE AND ADOPT-
 13 TION ASSISTANCE.—Section 471(a) of the Social Se-
 14 curity Act (42 U.S.C. 671(a)) is amended—

15 ~~(A)~~ by amending paragraph ~~(19)~~ to read
 16 as follows:

17 ~~“(19)~~ provides that the State shall consider giv-
 18 ing preference to an adult relative over a nonrelated
 19 caregiver when determining a placement for a child
 20 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 pos-
7 sible, the privacy and confidentiality of all infor-
8 mation gathered in the course of administering
9 the care, custody, and placement of, and follow
10 up services provided to, a separated child, con-
11 sistent with the best interest of such child, by
12 not disclosing such information to other govern-
13 ment agencies or persons (other than a parent,
14 guardian, or relative caregiver or such child),
15 except that the head of the State agency may
16 disclose such information, after placing a writ-
17 ten record of the disclosure in the file of the
18 child—

19 “(i) to a consular official for the pur-
20 pose of reunification of a child with a par-
21 ent, legal guardian, or relative caregiver
22 who has been removed or is involved in an
23 immigration proceeding, unless the child
24 has refused contact with, or the sharing of
25 personal or identifying information with,

1 the government of his or her country of or-
2 gin;

3 “(ii) when authorized to do so by the
4 child (if the child has attained 18 years of
5 age) if the disclosure is consistent with the
6 best interest of the child; or

7 “(iii) to a law enforcement agency if
8 the disclosure would prevent imminent and
9 serious harm to another individual; and

10 “(E) not less frequently than annually,
11 compile, update, and publish a list of entities in
12 the State that are qualified to provide guardian
13 and legal representation services for a separated
14 child, in a language such that a child can read
15 and understand.”.

16 (2) ~~ADDITIONAL INFORMATION TO BE IN-~~
17 ~~CLUDED IN CASE PLAN.—~~Section 475 of such Act
18 ~~(42 U.S.C. 675) is amended—~~

19 (A) in paragraph (1), by adding at the end
20 the following:

21 “(H) In the case of a separated child with
22 respect to whom the State plan requires the
23 State to provide services under section
24 471(a)(34)—

1 “(i) the location of the parent, guard-
2 ian, or relative described in paragraph
3 (9)(A) from whom the child has been sepa-
4 rated; and

5 “(ii) a written record of each disclo-
6 sure to a government agency or person
7 (other than such a parent, guardian, or
8 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, legal guardian, or pri-
16 mary caregiver who 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 **SEC. 2108. GOVERNMENT CONTRACTING AND ACQUISITION**
5 **OF REAL PROPERTY INTEREST.**

6 (a) **EXEMPTION FROM GOVERNMENT CONTRACTING**
7 **AND HIRING RULES.—**

8 (1) **IN GENERAL.**—A determination by a Fed-
9 eral agency to use a procurement competition ex-
10 emption under section 253(c) of title 41, United
11 States Code, or to use the authority granted in para-
12 graph (2), for the purpose of implementing this title
13 and the amendments made by this title is not sub-
14 ject to challenge by protest to the Government Ac-
15 countability Office under sections 3551 and 3556 of
16 title 31, United States Code, or to the Court of Fed-
17 eral Claims, under section 1491 of title 28, United
18 States Code. An agency shall immediately advise the
19 Congress of the exercise of the authority granted
20 under this paragraph.

21 (2) **GOVERNMENT CONTRACTING EXEMPTION.**—

22 The competition requirement under section 253(a)
23 of title 41, United States Code, may be waived or
24 modified by a Federal agency for any procurement
25 conducted to implement this title or the amendments

1 made by this title if the senior procurement execu-
2 tive for the agency conducting the procurement—

3 (A) determines that the waiver or modi-
4 fication is necessary; and

5 (B) submits an explanation for such deter-
6 mination to the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Senate
8 and the Committee on Homeland Security of
9 the House of Representatives.

10 (3) HIRING RULES EXEMPTION.—Notwith-
11 standing any other provision of law, the Secretary of
12 Homeland Security is authorized to make term, tem-
13 porary limited, and part-time appointments of em-
14 ployees who will implement this title and the amend-
15 ments made by this title without regard to the num-
16 ber of such employees, their ratio to permanent full-
17 time employees, and the duration of their employ-
18 ment. Nothing in chapter 71 of title 5, United
19 States Code, shall affect the authority of any De-
20 partment of Homeland Security management official
21 to hire term, temporary limited or part-time employ-
22 ees 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 of
5 Homeland Security may acquire a leasehold interest in
6 real property, and may provide in a lease entered into
7 under this subsection for the construction or modification
8 of any facility on the leased property, if the Secretary de-
9 termines that the acquisition of such interest, and such
10 construction or modification, are necessary in order to fa-
11 cilitate the implementation of this title and the amend-
12 ments made by this title.

13 **SEC. 2109. LONG-TERM LEGAL RESIDENTS OF THE COM-**
14 **MONWEALTH OF THE NORTHERN MARIANA**
15 **ISLANDS.**

16 Section (6)(e) of the Joint Resolution entitled “A
17 Joint Resolution to approve the ‘Covenant to Establish a
18 Commonwealth of the Northern Mariana Islands in Polit-
19 ical Union with the United States of America’, and for
20 other purposes”, approved March 24, 1976 (48 U.S.C.
21 1806(e)), as added by section 702 of the Consolidated
22 Natural Resources Act of 2008 (Public Law 110–229, 122
23 Stat. 854), is amended by adding at the end the following:

24 “(6) **SPECIAL PROVISION REGARDING LONG-**
25 **TERM RESIDENTS OF THE COMMONWEALTH.**—

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 sta-
7 tus under this subparagraph with public
8 assistance to which the alien is not other-
9 wise 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”—

14 (A) subject to subparagraph (B) has the
15 meaning given such term in section 3 of the Mi-
16 grant and Seasonal Agricultural Worker Protec-
17 tion Act (29 U.S.C. 1802), without regard to
18 whether the specific service or activity is tem-
19 porary or seasonal; and

20 (B) includes farming in all its branches,
21 the cultivation and tillage of the soil, dairying,
22 the production, cultivation, growing, and har-
23 vesting of any agricultural or horticultural com-
24 modities, the raising of livestock, bees, fur-bear-
25 ing animals, or poultry, and any practices (in-

1 cluding any forestry or lumbering operations)
2 performed by a farmer or on a farm as an inci-
3 dent to, or in conjunction with, such farming
4 operations, including preparation for market,
5 delivery to storage or to market or to carriers
6 for transportation to market.

7 (3) CHILD.—The term “child” has the meaning
8 given the term in section 101(b)(1) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1101(b)(1)).

10 (4) EMPLOYER.—The term “employer” means
11 any person or entity, including any farm labor con-
12 tractor and any agricultural association, that em-
13 ploys workers in agricultural employment.

14 (5) QUALIFIED DESIGNATED ENTITY.—The
15 term “qualified designated entity” means—

16 (A) a qualified farm labor organization or
17 an association of employers designated by the
18 Secretary; or

19 (B) any other entity that the Secretary
20 designates as having substantial experience,
21 demonstrated competence, and a history of
22 long-term involvement in the preparation and
23 submission of application for adjustment of sta-
24 tus under title II of the Immigration and Na-
25 tionality Act (8 U.S.C. 1151 et seq.).

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

4 **CHAPTER 1—PROGRAM FOR EARNED STA-**
5 **TUS ADJUSTMENT OF AGRICULTURAL**
6 **WORKERS**

7 **Subchapter A—Blue Card Status**

8 **SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS.**

9 (a) **REQUIREMENTS FOR BLUE CARD STATUS.**—Not-
10 withstanding any other provision of law, the Secretary,
11 after conducting the national security and law enforce-
12 ment clearances required under section 245B(e)(4), may
13 grant blue card status to an alien who—

14 (1)(A) performed agricultural employment in
15 the United States for not fewer than 575 hours or
16 100 work days during the 2-year period ending on
17 December 31, 2012; or

18 (B) is the spouse or child of an alien described
19 in paragraph (1);

20 (2) submits a completed application before the
21 end of the period set forth in subsection (b)(2); and

22 (3) is not ineligible under paragraph (3) or (4)
23 of section 245B(b) of the Immigration and Nation-
24 ality Act.

25 (b) **APPLICATION.**—

1 (1) IN GENERAL.—An alien who meets the eli-
2 gibility requirements set forth in subsection (a)(1),
3 may apply for blue card status and that alien's
4 spouse or child may apply for agricultural worker
5 status as a dependent, by submitting a completed
6 application form to the Secretary during the applica-
7 tion period set forth in paragraph (2) in accordance
8 with the final rule promulgated by the Secretary
9 pursuant to subsection (f).

10 (2) APPLICATION PERIOD.—

11 (A) INITIAL PERIOD.—Except as provided
12 in subparagraph (B), the Secretary may only
13 accept applications for blue card status from
14 aliens in the United States during the 1-year
15 period beginning on the date on which the final
16 rule is published in the Federal Register pursu-
17 ant to subsection (f).

18 (B) EXTENSION.—If the Secretary deter-
19 mines, during the initial period described in
20 subparagraph (A), that additional time is re-
21 quired to process applications for blue card sta-
22 tus or for other good cause, the Secretary may
23 extend the period for accepting applications for
24 an additional 18 months.

25 (3) APPLICATION FORM.—

1 (A) ~~REQUIRED INFORMATION.~~—The appli-
2 cation form referred to in paragraph (1) shall
3 collect such information as the Secretary deter-
4 mines necessary and appropriate.

5 (B) ~~FAMILY APPLICATION.~~—The Secretary
6 shall establish a process through which an alien
7 may submit a single application under this sec-
8 tion on behalf of the alien, his or her spouse,
9 and his or her children, who are residing in the
10 United States.

11 (C) ~~INTERVIEW.~~—The Secretary may
12 interview applicants for blue card status to de-
13 termine whether they meet the eligibility re-
14 quirements set forth in subsection (a)(1).

15 (4) ~~ALIENS APPREHENDED BEFORE OR DURING~~
16 ~~THE APPLICATION PERIOD.~~—If an alien, who is ap-
17 prehended during the period beginning on the date
18 of the enactment of this Act and ending on the ap-
19 plication period described in paragraph (2), appears
20 prima facie eligible for blue card status, the Sec-
21 retary—

22 (A) shall provide the alien with a reason-
23 able opportunity to file an application under
24 this section during such application period; and

1 Immigration Review and is prima facie eli-
2 gible for blue card status under this sec-
3 tion—

4 (I) the Secretary shall provide
5 the alien with the opportunity to file
6 an application for such status; and

7 (II) upon motion by the Sec-
8 retary and with the consent of the
9 alien or upon motion by the alien, the
10 Executive Office for Immigration Re-
11 view shall—

12 (aa) terminate such pro-
13 ceedings without prejudice to fu-
14 ture proceedings on any basis;
15 and

16 (bb) provide the alien a rea-
17 sonable opportunity to apply for
18 such status; and

19 (ii) if the Executive Office for Immi-
20 gration Review determines that an alien,
21 during the application period described in
22 paragraph (2), is in removal, deportation,
23 or exclusion proceedings before the Execu-
24 tive Office for Immigration Review and is

1 voluntarily from the United States under
2 any provision of this Act—

3 ~~(I) notwithstanding such order or~~
4 ~~section 241(a)(5) of the Immigration~~
5 ~~and Nationality Act (8 U.S.C.~~
6 ~~1231(a)(5)), the alien may apply for~~
7 ~~blue card status under this section;~~
8 ~~and~~

9 ~~(II) if the alien is granted such~~
10 ~~status, the alien shall file a motion to~~
11 ~~reopen the exclusion, deportation, re-~~
12 ~~moval, or voluntary departure order,~~
13 ~~which motion shall be granted unless~~
14 ~~1 or more of the grounds of ineligi-~~
15 ~~bility is established by clear and con-~~
16 ~~vincing evidence.~~

17 ~~(ii) LIMITATIONS ON MOTIONS TO RE-~~
18 ~~OPEN.—The limitations on motions to re-~~
19 ~~open set forth in section 240(e)(7) of the~~
20 ~~Immigration and Nationality Act (8 U.S.C.~~
21 ~~1229a(e)(7)) shall not apply to motions~~
22 ~~filed under clause (i)(II).~~

23 ~~(D) PERIOD PENDING ADJUDICATION OF~~
24 ~~APPLICATION.—~~

1 (i) IN GENERAL.—During the period
2 beginning on the date on which an alien
3 applies for blue card status under para-
4 graph (1) and the date on which the Sec-
5 retary makes a final decision regarding
6 such application, the alien—

7 (I) may receive advance parole to
8 reenter the United States if urgent
9 humanitarian circumstances compel
10 such travel;

11 (II) may not be detained by the
12 Secretary or removed from the United
13 States unless the Secretary makes a
14 prima facie determination that such
15 alien is, or has become, ineligible for
16 blue card status under subsection
17 (a)(1)(e);

18 (III) shall not be considered un-
19 lawfully present for purposes of sec-
20 tion 212(a)(9)(B) of the Immigration
21 and Nationality Act (8 U.S.C.
22 1182(a)(9)(B)); and

23 (IV) shall not be considered an
24 unauthorized alien (as defined in sec-
25 tion 274A(h)(3) of the Immigration

1 and Nationality Act (8 U.S.C.
2 1324a(h)(3)).

3 (ii) EVIDENCE OF APPLICATION FILING.—As soon as practicable after receiving
4 each application for blue card status,
5 the Secretary shall provide the applicant
6 with a document acknowledging the receipt
7 of such application.
8

9 (iii) CONTINUING EMPLOYMENT.—An
10 employer who knows an alien employee is
11 an applicant for blue card status or will
12 apply for such status once the application
13 period commences is not in violation of section
14 274A(a)(2) of the Immigration and
15 Nationality Act (8 U.S.C. 1324a(a)(2)) if
16 the employer continues to employ the alien
17 pending the adjudication of the alien employee's application.
18

19 (iv) EFFECT OF DEPARTURE.—Section
20 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not
21 apply to an alien granted—
22

23 (I) advance parole under clause
24 (i)(I) to reenter the United States; or
25 (II) blue card status.

1 (6) SECURITY AND LAW ENFORCEMENT CLEAR-
2 ANCES.—

3 (A) BIOMETRIC AND BIOGRAPHIC DATA.—

4 The Secretary may not grant blue card status
5 to an alien or an alien dependent spouse or
6 child under this section unless such alien sub-
7 mits biometric and biographic data in accord-
8 ance with procedures established by the Sec-
9 retary.

10 (B) ALTERNATIVE PROCEDURES.—The
11 Secretary shall provide an alternative procedure
12 for applicants who cannot provide the standard
13 biometric data required under subparagraph
14 (A) because of a physical impairment.

15 (C) CLEARANCES.—

16 (i) DATA COLLECTION.—The Sec-
17 retary shall collect, from each alien apply-
18 ing for status under this section, biometric,
19 biographic, and other data that the Sec-
20 retary determines to be appropriate—

21 (I) to conduct national security
22 and law enforcement clearances; and

23 (II) to determine whether there
24 are any national security or law en-

1 forcement factors that would render
2 an alien ineligible for such status.

3 (ii) PREREQUISITE.—The required
4 clearances described in clause (i)(I) shall
5 be completed before the alien may be
6 granted blue card status.

7 (7) DURATION OF STATUS AND EXTENSION.—

8 (A) IN GENERAL.—After the date that is 8
9 years after the date regulations are published
10 under this section, no alien may remain in blue
11 card status.

12 (B) EXTENSION.—An extension of blue
13 card status may not be granted by the Sec-
14 retary until renewed national security and law
15 enforcement clearances have been completed
16 with respect to the applicant, to the satisfaction
17 of the Secretary.

18 (8) FEES AND PENALTIES.—

19 (A) STANDARD PROCESSING FEE.—

20 (i) IN GENERAL.—Aliens who are 16
21 years of age or older and are applying for
22 blue card status under paragraph (2), or
23 for an extension of such status, shall pay
24 a processing fee to the Department of

1 Homeland Security in an amount deter-
2 mined 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 (H) 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 Com-
8 prehensive Immigration Reform Trust
9 Fund established under section 6(a)(1);

10 (ii) may be used for the purposes set
11 forth in section 6(a)(3)(B).

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 (9) ADJUDICATION.—

1 (A) ~~FAILURE TO SUBMIT SUFFICIENT EVIDENCE.~~—The Secretary shall deny an application submitted by an alien who fails to submit—

2 (i) requested initial evidence, including requested biometric data; or

3 (ii) any requested additional evidence by the date required by the Secretary.

4 (B) ~~AMENDED APPLICATION.~~—An alien whose application for blue card status is denied under subparagraph (A) may file an amended application for such status to the Secretary if the amended application—

5 (i) is filed within the application period described in paragraph (2); and

6 (ii) contains all the required information and fees that were missing from the initial application.

7 (10) ~~EVIDENCE OF BLUE CARD STATUS.~~—

8 (A) ~~IN GENERAL.~~—The Secretary shall issue documentary evidence of blue card status to each alien whose application for such status 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 described in subsection
5 (a)(1)(C);

6 (ii) knowingly used documentation
7 issued under this section for an unlawful
8 or fraudulent purpose; or

9 (iii) was absent from the United
10 States for—

11 (I) any single period longer than
12 180 days in violation of the require-
13 ment under paragraph (1)(B)(ii); or

14 (II) for more than 180 days in
15 the aggregate during any calendar
16 year, unless the alien's failure to time-
17 ly return was due to extenuating cir-
18 cumstances beyond the alien's control.

19 ~~(B) ADDITIONAL EVIDENCE.—~~

20 (i) ~~IN GENERAL.—~~In determining
21 whether to revoke an alien's status under
22 subparagraph (A), the Secretary may re-
23 quire the alien—

24 (I) to submit additional evidence;
25 or

1 (H) to appear for an interview.

2 (ii) EFFECT OF NONCOMPLIANCE.—

3 The status of an alien who fails to comply
4 with any requirement imposed by the Sec-
5 retary under clause (i) shall be revoked un-
6 less the alien demonstrates to the Sec-
7 retary's satisfaction that such failure was
8 reasonably excusable.

9 (C) INVALIDATION OF DOCUMENTATION.—

10 If an alien's blue card status is revoked under
11 subparagraph (A), any documentation issued by
12 the Secretary to such alien under subsection
13 (b)(11) shall automatically be rendered invalid
14 for any purpose except for departure from the
15 United States.

16 (3) INELIGIBILITY FOR PUBLIC BENEFITS.—An
17 alien who has been granted blue card status is not
18 eligible for any Federal means-tested public benefit
19 (as such term is defined in section 403 of the Per-
20 sonal Responsibility and Work Opportunity Rec-
21 onciliation Act of 1996 (8 U.S.C. 1613).

22 (4) TREATMENT OF BLUE CARD STATUS.—A

23 noncitizen granted blue card status shall be consid-
24 ered lawfully present in the United States for all

1 purposes while such noncitizen remains in such sta-
2 tus, except that the noncitizen—

3 (A) is not entitled to the premium assist-
4 ance tax credit authorized under section ~~36B~~ of
5 the Internal Revenue Code of 1986;

6 (B) shall be subject to the rules applicable
7 to individuals who are not lawfully present set
8 forth in subsection (e) of such section; and

9 (C) shall be subject to the rules applicable
10 to individuals who are not lawfully present set
11 forth in section 1402(e) of the Patient Protec-
12 tion and Affordable Care Act (42 U.S.C.
13 18071(e)).

14 (5) ~~ADJUSTMENT TO REGISTERED PROVISIONAL~~
15 ~~IMMIGRANT STATUS.~~—The Secretary may adjust the
16 status of an alien who has been granted blue card
17 status to the status of a registered provisional immi-
18 grant under section ~~245B~~ if the Secretary deter-
19 mines that the alien is unable to fulfill the agricul-
20 tural service requirement set forth in section
21 ~~2212(a)(1)~~.

22 (d) ~~RECORD OF EMPLOYMENT.~~—

23 (1) ~~IN GENERAL.~~—Each employer of an alien
24 granted blue card status shall annually provide—

1 (A) a written record of employment to the
2 alien; and

3 (B) a copy of such record to the Secretary
4 of Agriculture.

5 (2) CIVIL PENALTIES.—

6 (A) IN GENERAL.—If the Secretary finds,
7 after notice and an opportunity for a hearing,
8 that an employer of an alien granted blue card
9 status has knowingly failed to provide the
10 record of employment required under paragraph
11 (1) or has provided a false statement of mate-
12 rial fact in such a record, the employer shall be
13 subject to a civil penalty in an amount not to
14 exceed \$500 per violation.

15 (B) LIMITATION.—The penalty under sub-
16 paragraph (A) for failure to provide employ-
17 ment records shall not apply unless the alien
18 has provided the employer with evidence of em-
19 ployment authorization provided under sub-
20 section (e).

21 (C) DEPOSIT OF CIVIL PENALTIES.—Civil
22 penalties collected under this paragraph shall be
23 deposited in the Comprehensive Immigration
24 Reform Trust Fund established under section
25 6(a)(1).

1 ~~(3) TERMINATION OF OBLIGATION.~~—The obli-
2 gation under paragraph ~~(1)~~ shall terminate on the
3 date that is 8 years after the date of the enactment
4 of this Act.

5 ~~(c) RULEMAKING.~~—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary, in con-
7 sultation with the Secretary of Agriculture, shall issue
8 final regulations for granting blue card status under this
9 section.

10 **SEC. 2212. ADJUSTMENT TO PERMANENT RESIDENT STA-**
11 **TUS.**

12 ~~(a) IN GENERAL.~~—Except as provided in subsection
13 ~~(b)~~, and not earlier than 5 years after the date of the en-
14 actment of this Act, the Secretary shall adjust the status
15 of an alien granted blue card status to that of an alien
16 lawfully admitted for permanent residence if the Secretary
17 determines that the following requirements are satisfied:

18 ~~(1) QUALIFYING EMPLOYMENT.~~—Except as
19 provided in paragraph ~~(3)~~, the alien—

20 ~~(A)~~ during the 8-year period beginning on
21 the date of the enactment of this Act, per-
22 formed not less than 100 work days of agricul-
23 tural employment during each of 5 years; or

24 ~~(B)~~ during the 5-year period beginning on
25 the date of the enactment of this Act, per-

1 formed not less than 150 work days of agricul-
2 tural employment during each of 3 years.

3 ~~(2) EVIDENCE.—An alien may demonstrate~~
4 compliance with the requirement under paragraph
5 ~~(1)~~ by submitting—

6 ~~(A) the record of employment described in~~
7 section ~~2211~~(e);

8 ~~(B) documentation that may be submitted~~
9 under subsection ~~(e)~~(5); or

10 ~~(C) any other documentation designated by~~
11 the Secretary for such purpose.

12 ~~(3) EXTRAORDINARY CIRCUMSTANCES.—~~

13 ~~(A) IN GENERAL.—In determining whether~~
14 an alien has met the requirement under para-
15 graph ~~(1)~~, the Secretary may credit the alien
16 with not more than 12 additional months of ag-
17 ricultural employment in the United States to
18 meet such requirement if the alien was unable
19 to work in agricultural employment due to—

20 ~~(i) pregnancy, disabling injury, or dis-~~
21 ease that the alien can establish through
22 medical records;

23 ~~(ii) illness, disease, or other special~~
24 needs of a child that the alien can establish
25 through medical records;

1 (iii) severe weather conditions that
2 prevented the alien from engaging in agri-
3 cultural employment for a significant pe-
4 riod of time; or

5 (iv) termination from agricultural em-
6 ployment, if the Secretary determines
7 that—

8 (I) the termination was without
9 just cause; and

10 (II) the alien was unable to find
11 alternative agricultural employment
12 after a reasonable job search.

13 (B) EFFECT OF DETERMINATION.—A de-
14 termination under subparagraph (A)(iv), with
15 respect to an alien, shall not be conclusive,
16 binding, or admissible in a separate or subse-
17 quent judicial or administrative action or pro-
18 ceeding between the alien and a current or
19 prior employer of the alien or any other party.

20 (4) APPLICATION PERIOD.—The alien applies
21 for adjustment of status before the alien's agricul-
22 tural card status expires.

23 (5) FINE.—The alien pays a fine of \$400 to the
24 Secretary, which shall be deposited into the Com-

1 prehensive Immigration Reform Trust Fund estab-
2 lished under section 6(a)(1).

3 (b) ~~GROUND~~S FOR DENIAL OF ADJUSTMENT OF STA-
4 TUS.—

5 (1) ~~IN GENERAL~~.—The Secretary may not ad-
6 just the status of an alien granted blue card status
7 if the alien—

8 (A) is no longer eligible for blue card sta-
9 tus; or

10 (B) failed to perform the qualifying em-
11 ployment requirement under subsection (a)(1),
12 considering any amount credited by the Sec-
13 retary under subsection (a)(3).

14 (2) ~~MAINTENANCE OF WAIVERS OF INADMISS-~~
15 SIBILITY.—The grounds of inadmissibility set forth
16 in section 212(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a)) that were previously waived
18 for the alien or made inapplicable shall not apply for
19 purposes of the alien's adjustment of status under
20 this section.

21 (3) ~~PENDING REVOCATION PROCEEDINGS~~.—If
22 the Secretary has notified the applicant that the
23 Secretary intends to revoke the applicant's blue card
24 status, the Secretary may not approve an application
25 for adjustment of status under this section unless

1 the Secretary makes a final determination not to re-
2 voke the applicant's status.

3 (4) PAYMENT OF TAXES.—

4 (A) IN GENERAL.—An applicant may not
5 file an application for adjustment of status
6 under this section unless the applicant has sat-
7 isfied any applicable Federal tax liability.

8 (B) COMPLIANCE.—The applicant may
9 demonstrate compliance with subparagraph (A)
10 by submitting such documentation as the Sec-
11 retary, in consultation with the Secretary of the
12 Treasury, may require by regulation.

13 (c) SPOUSES AND CHILDREN.—Notwithstanding any
14 other provision of law, the Secretary shall grant perma-
15 nent resident status to the spouse or child of an alien
16 whose status was adjusted under subsection (a) if—

17 (1) the spouse or child applies for such status;

18 (2) the principal alien includes the spouse and
19 children in an application for adjustment of status
20 to that of a lawful permanent resident; and

21 (3) the spouse or child is not ineligible under
22 section 245B(b)(3).

23 (d) NUMERICAL LIMITATIONS DO NOT APPLY.—

24 (1) IN GENERAL.—The numerical limitations
25 under sections 201 and 202 of the Immigration and

1 Nationality Act (8 U.S.C. 1151 and 1152) shall not
2 apply to the adjustment of aliens to lawful perma-
3 nent resident status under this section.

4 (2) CONFORMING AMENDMENT.—Section
5 201(b)(1) is amended by adding at the end the fol-
6 lowing:

7 “(F) Aliens granted lawful permanent resi-
8 dent status under section 245B.”.

9 (c) SUBMISSION OF APPLICATIONS.—

10 (1) INTERVIEW.—The Secretary may interview
11 applicants for adjustment of status under this sec-
12 tion to determine whether they meet the eligibility
13 requirements set forth in this section.

14 (2) FEES .—

15 (A) IN GENERAL.—Applicants for adjust-
16 ment of status under this section shall pay a
17 processing fee to the Secretary in an amount
18 that will ensure the recovery of the full costs of
19 adjudicating such applications, including—

20 (i) the cost of taking and processing
21 biometrics;

22 (ii) expenses relating to prevention
23 and investigation of fraud; and

24 (iii) costs relating to the administra-
25 tion of the fees collected.

1 (B) AUTHORITY TO LIMIT FEES.—The
2 Secretary, by regulation—

3 (i) may limit the maximum processing
4 fee payable under this paragraph by a fam-
5 ily, including spouses and unmarried chil-
6 dren younger than 21 years of age; and

7 (ii) may exempt individuals described
8 in section 245B(e)(10) of the Immigration
9 and Nationality Act, as added by section
10 2201 of this Act, and other defined classes
11 of individuals from the payment of the fee
12 under subparagraph (A).

13 (3) DISPOSITION OF FEES.—

14 (A) IN GENERAL.—All fees collected under
15 paragraph (1)(A) shall be deposited as offset-
16 ting receipts into the Comprehensive Immigra-
17 tion Reform Trust Fund established under sec-
18 tion 6(a)(1).

19 (B) USE OF FEES FOR APPLICATION PROC-
20 ESSING.—Amounts deposited into the Com-
21 prehensive Immigration Reform Trust Fund
22 pursuant to subparagraph (A) shall remain
23 available to the Secretary until expended for
24 processing applications for agriculture card sta-

1 tus or for adjustment of status under this sec-
2 tion or section 2211.

3 (4) DOCUMENTATION OF WORK HISTORY.—

4 (A) BURDEN OF PROOF.—An alien apply-
5 ing for blue card status under this section or
6 for adjustment of status under subsection (a)
7 has provided evidence that the alien has worked
8 the requisite number of hours or days required
9 under section 2211(a)(1) or subsection (a)(3),
10 as applicable.

11 (B) TIMELY PRODUCTION OF RECORDS.—
12 If an employer or farm labor contractor employ-
13 ing such an alien has kept proper and adequate
14 records respecting such employment, the alien's
15 burden of proof under subparagraph (A) may
16 be met by securing timely production of those
17 records under regulations to be promulgated by
18 the Secretary.

19 (C) SUFFICIENT EVIDENCE.—An alien
20 may meet the burden of proof under subpara-
21 graph (A) to establish that the alien has per-
22 formed the days or hours of work referred to in
23 subparagraph (A) by producing sufficient evi-
24 dence to show the extent of that employment as
25 a matter of just and reasonable inference.

1 ~~(f) LIMITATION ON ACCESS TO INFORMATION.—Files~~
2 and records collected or compiled by a qualified designated
3 entity for the purposes of this section are confidential. The
4 Secretary may not have access to such a file or record
5 relating to an alien without the consent of the alien, except
6 as allowed by a court order issued pursuant to subsection
7 ~~(g)~~.

8 ~~(g) CONFIDENTIALITY OF INFORMATION.—Except as~~
9 otherwise provided in this section, the Secretary or any
10 other official or employee of the Department may not—

11 ~~(1) use information furnished by the applicant~~
12 pursuant to an application filed under this subtitle;
13 the information provided by an applicant to a quali-
14 fied designated entity, or any information provided
15 by an employer or former employer for any purpose
16 other than to make a determination on the applica-
17 tion or for imposing the penalties described in sub-
18 section ~~(h)~~;

19 ~~(2) make any publication in which the informa-~~
20 tion furnished by any particular individual can be
21 identified; or

22 ~~(3) permit a person other than a sworn officer~~
23 or employee of the Department or, with respect to
24 applications filed with a qualified designated entity;

1 that qualified designated entity, to examine indi-
2 vidual applications.

3 (h) PENALTIES FOR FALSE STATEMENTS IN APPLI-
4 CATIONS.—

5 (1) CRIMINAL PENALTY.—Any person who—

6 (A) files an application for blue card status
7 under section 2211 or an adjustment of status
8 under this section and knowingly and willfully
9 falsifies, conceals, or covers up a material fact
10 or makes any false, fictitious, or fraudulent
11 statements or representations, or makes or uses
12 any false writing or document knowing the
13 same to contain any false, fictitious, or fraudu-
14 lent statement or entry; or

15 (B) creates or supplies a false writing or
16 document for use in making such an applica-
17 tion,

18 shall be fined in accordance with title 18, United
19 States Code, imprisoned not more than 5 years, or
20 both.

21 (2) INADMISSIBILITY.—An alien who is con-
22 victed of a crime under paragraph (1) shall be
23 deemed inadmissible to the United States on the
24 ground described in section 212(a)(6)(C)(i) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1182(a)(6)(C)(i)).

3 ~~(3) DEPOSIT.~~—Fines collected under paragraph
4 (1) shall be deposited into the Comprehensive Immi-
5 gration Reform Trust Fund established under sec-
6 tion 6(a)(1).

7 (i) ~~ELIGIBILITY FOR LEGAL SERVICES.~~—Section
8 504(a)(11) of the Departments of Commerce, Justice, and
9 State, the Judiciary, and Related Agencies Appropriations
10 Act, 1996 (Public Law 104–134, 110 Stat. 1321–55) may
11 not be construed to prevent a recipient of funds under the
12 Legal Services Corporation Act (42 U.S.C. 2996 et seq.)
13 from providing legal assistance directly related to an appli-
14 cation for blue card status under section 2211 or an ad-
15 justment of status under this section.

16 **SEC. 2213. USE OF INFORMATION.**

17 Beginning not later than the first day of the applica-
18 tion period described in section 2211(c)(1), the Secretary,
19 in cooperation with qualified designated entities, shall
20 broadly disseminate information respecting the benefits
21 that aliens may receive under this subchapter and the re-
22 quirements that an alien is required to meet to receive
23 such benefits.

1 **SEC. 2214. REPORTS ON BLUE CARDS.**

2 Not later than September 30, 2013, and annually
3 thereafter for the next 8 years, the Secretary shall submit
4 a report to Congress that identifies, for the previous fiscal
5 year—

6 (1) the number of aliens who applied for blue
7 card status;

8 (2) the number of aliens who were granted blue
9 card status;

10 (3) the number of aliens who applied for an ad-
11 justment of status pursuant to section 2212(a); and

12 (4) the number of aliens who received an ad-
13 justment of status pursuant section 2212(a).

14 **SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to the Sec-
16 retary such sums as may be necessary to implement this
17 subpart, including any sums needed for costs associated
18 with the initiation of such implementation, for fiscal years
19 2013 and 2014.

20 **Subchapter B—Correction of Social Security**
21 **Records**

22 **SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.**

23 (a) IN GENERAL.—Section 208(e)(1) of the Social
24 Security Act (42 U.S.C. 408(e)(1)) is amended—

25 (1) in subparagraph (B)(ii), by striking “or” at
26 the end;

1 (2) in subparagraph (C), by inserting “or” at
2 the end;

3 (3) by inserting after subparagraph (C) the fol-
4 lowing:

5 “(D) who is granted blue card status
6 under the Agricultural Worker Program Act of
7 2013,”; and

8 (4) by striking “1990.” and inserting “1990, or
9 in the case of an alien described in subparagraph
10 (D), if such conduct is alleged to have occurred be-
11 fore the date on which the alien was granted blue
12 card status under section 2211(a) of the Agricul-
13 tural Worker Program Act of 2013.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect on the first day of the sev-
16 enth month that begins after the date of the enactment
17 of this Act.

18 **CHAPTER 2—NONIMMIGRANT**

19 **AGRICULTURAL VISA PROGRAM**

20 **SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON-**
21 **IMMIGRANT AGRICULTURAL WORKERS.**

22 Section 101(a)(15) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1101(a)(15)) is amended—

24 (1) in subparagraph (U), by striking “or” at
25 the end;

1 offer of full-time employment in an agricul-
 2 tural occupation from a designated agricul-
 3 tural employer for such employment and is
 4 not described in clause (i);

5 “(II) who meets the requirements
 6 under section 218A for a nonimmigrant
 7 visa described in this clause; and

8 “(III) with respect to whom the Sec-
 9 retary of Agriculture has notified the Sec-
 10 retary of Homeland Security and the Sec-
 11 retary of State that the intending employer
 12 has accepted the terms and conditions of
 13 such employment for such a non-
 14 immigrant.”.

15 **SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICUL-**
 16 **TURAL WORKER PROGRAM.**

17 (a) IN GENERAL.—Chapter 2 of title II of the Immi-
 18 gration and Nationality Act (8 U.S.C. 211 et seq.) is
 19 amended by adding at the end the following:

20 **“SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PRO-**
 21 **GRAM.**

22 “(a) DEFINITIONS.—In this section and in section
 23 101(a)(15)(W):

24 “(1) AGRICULTURAL EMPLOYMENT.—The term
 25 ‘agricultural employment’—

1 “(A) subject to subparagraph (B) has the
2 meaning given such term in section 3 of the Mi-
3 grant and Seasonal Agricultural Worker Protec-
4 tion Act (29 U.S.C. 1802), without regard to
5 whether the specific service or activity is tem-
6 porary or seasonal; and

7 “(B) includes farming in all its branches,
8 the cultivation and tillage of the soil, dairying,
9 the production, cultivation, growing, and har-
10 vesting of any agricultural or horticultural com-
11 modities, the raising of livestock, bees, fur-bear-
12 ing animals, or poultry, and any practices (in-
13 cluding any forestry or lumbering operations)
14 performed by a farmer or on a farm as an inci-
15 dent to, or in conjunction with, such farming
16 operations, including preparation for market,
17 delivery to storage or to market or to carriers
18 for transportation to market.

19 “(2) AT-WILL AGRICULTURAL WORKER.—The
20 term ‘at-will agricultural worker’ means an alien
21 present in the United States pursuant to section
22 101(a)(15)(W)(iv).

23 “(3) BLUE CARD.—The term ‘blue card’ means
24 an employment authorization and travel document
25 issued to an alien granted blue card status under

1 section 2211(a) of the Agricultural Job Opportuni-
2 ties, Benefits, and Security Act of 2013.

3 “(4) ~~CONTRACT AGRICULTURAL WORKER.~~—The
4 term ‘contract agricultural worker’ means an alien
5 present in the United States pursuant to section
6 101(a)(15)(W)(iii).

7 “(5) ~~DESIGNATED AGRICULTURAL EM-~~
8 ~~PLOYER.~~—The term ‘designated agricultural em-
9 ployer’ means an employer who is registered with
10 the Secretary of Agriculture pursuant to subsection
11 (e)(1).

12 “(6) ~~ELECTRONIC JOB REGISTRY.~~—The term
13 ‘Electronic Job Registry’ means the Electronic Job
14 Registry of a State workforce agency (or similar suc-
15 cessor registry).

16 “(7) ~~EMPLOYER.~~—Except as otherwise pro-
17 vided, the term ‘employer’ means any person or enti-
18 ty, including any farm labor contractor and any ag-
19 ricultural association, that employs workers in agri-
20 cultural employment.

21 “(8) ~~NONIMMIGRANT AGRICULTURAL WORK-~~
22 ~~ER.~~—The term ‘nonimmigrant agricultural worker’
23 mean a nonimmigrant described in clause (iii) or (iv)
24 of section 101(a)(15)(W).

1 “(9) PROGRAM.—The term ‘Program’ means
2 the Nonimmigrant Agricultural Worker Program es-
3 tablished under subsection (b).

4 “(10) SECRETARY.—Except as otherwise spe-
5 cifically provided, the term ‘Secretary’ means the
6 Secretary of Agriculture.

7 “(11) UNITED STATES WORKER.—The term
8 ‘United States worker’ means an individual who—

9 “(A) is a national of the United States; or

10 “(B) is an alien who—

11 “(i) is lawfully admitted for perma-
12 nent residence;

13 “(ii) is admitted as a refugee under
14 section 207;

15 “(iii) is granted asylum under section
16 208;

17 “(iv) holds an blue card; or

18 “(v) is an immigrant otherwise au-
19 thorized by this Act or by the Secretary of
20 Homeland Security to be employed in the
21 United States.

22 “(b) REQUIREMENTS.—

23 “(1) EMPLOYER.—An employer may not employ
24 an alien for agricultural employment under the Pro-
25 gram unless such employer is a designated agricul-

1 tural employer and complies with the terms of this
2 section.

3 “(2) WORKER.—An alien may not be employed
4 for agricultural employment under the Program un-
5 less such alien is a nonimmigrant agricultural work-
6 er and complies with the terms of this section.

7 “(c) NUMERICAL LIMITATION.—

8 “(1) FIRST 5 YEARS OF PROGRAM.—

9 “(A) IN GENERAL.—Subject to paragraph
10 (2), the worldwide level of visas for non-
11 immigrant agricultural workers for the fiscal
12 year during which the first visa is issued to a
13 nonimmigrant agricultural worker and for each
14 of the following 4 fiscal years shall be equal
15 to—

16 “(i) 112,333; and

17 “(ii) the numerical adjustment made
18 by the Secretary for such fiscal year in ac-
19 cordance with paragraph (2).

20 “(B) QUARTERLY ALLOCATION.—The an-
21 nual allocation of visas described in subpara-
22 graph (A) shall be evenly allocated between the
23 4 quarters of the fiscal year unless the Sec-
24 retary determines that an alternative allocation
25 would better accommodate the seasonal demand

1 for visas. Any unused visas in a quarter shall
2 be added to the allocation for the subsequent
3 quarter of the same fiscal year.

4 “(C) EFFECT OF 2ND OR SUBSEQUENT
5 DESIGNATED AGRICULTURAL EMPLOYER.—A
6 nonimmigrant agricultural worker who has a
7 valid visa issued under this section that counted
8 against the allocation described in subpara-
9 graph (A) shall not be recounted against the al-
10 location if the worker is petitioned for by a sub-
11 sequent designated agricultural employer.

12 “(2) ANNUAL ADJUSTMENTS FOR FIRST 5
13 YEARS OF PROGRAM.—

14 “(A) IN GENERAL.—The Secretary, after
15 reviewing relevant evidence submitted by agri-
16 cultural producers and organizations rep-
17 resenting agricultural workers, may increase or
18 decrease, as appropriate, the worldwide level of
19 visas under paragraph (1) for each of the 5 fis-
20 cal years referred to in paragraph (1) based on
21 the following factors:

22 “(i) A demonstrated shortage of agri-
23 cultural workers.

1 “(ii) The level of unemployment and
2 underemployment of agricultural workers
3 during the preceding fiscal year.

4 “(iii) The number of applications for
5 blue card status.

6 “(iv) The number of blue card visa
7 applications approved.

8 “(v) The number of nonimmigrant ag-
9 ricultural workers sought by employers
10 during the preceding fiscal year.

11 “(vi) The estimated number of United
12 States workers, including blue card work-
13 ers, who worked in agriculture during the
14 preceding fiscal year.

15 “(vii) The number of nonimmigrant
16 agricultural workers issued a visa in the
17 most recent fiscal year who remain in the
18 United States in compliance with the terms
19 of such visa.

20 “(viii) The number of United States
21 workers who accepted jobs offered by em-
22 ployers using the Electronic Job Registry
23 during the preceding fiscal year.

24 “(ix) Any growth or contraction of the
25 United States agricultural industry that

1 has increased or decreased the demand for
2 agricultural workers.

3 ~~“(x) Any changes in the real wages~~
4 ~~paid to agricultural workers in the United~~
5 ~~States as an indication of a shortage or~~
6 ~~surplus of agricultural labor.~~

7 ~~“(B) NOTIFICATION; IMPLEMENTATION.—~~
8 ~~The Secretary shall notify the Secretary of~~
9 ~~Homeland Security of any change to the world-~~
10 ~~wide level of visas for nonimmigrant agricul-~~
11 ~~tural workers. The Secretary of Homeland Se-~~
12 ~~curity shall implement such changes.~~

13 ~~“(C) EMERGENCY PROCEDURES.—The~~
14 ~~Secretary shall establish, by regulation, proce-~~
15 ~~dures for immediately adjusting an annual allo-~~
16 ~~cation under paragraph (1) for severe labor~~
17 ~~shortages, as determined by the Secretary.~~

18 ~~“(3) SIXTH AND SUBSEQUENT YEARS OF PRO-~~
19 ~~GRAM.—The Secretary, in consultation with the Sec-~~
20 ~~retary of Labor, shall establish the worldwide level~~
21 ~~of visas for nonimmigrant agricultural workers for~~
22 ~~each fiscal year following the fiscal years referred to~~
23 ~~in paragraph (1) after considering appropriate fac-~~
24 ~~tors, including—~~

1 “(A) a demonstrated shortage of agricul-
2 tural workers;

3 “(B) the level of unemployment and under-
4 employment of agricultural workers during the
5 preceding fiscal year;

6 “(C) the number of applications for blue
7 card status;

8 “(D) the number of blue card visa applica-
9 tions approved;

10 “(E) the number of nonimmigrant agricul-
11 tural workers sought by employers during the
12 preceding fiscal year;

13 “(F) the estimated number of United
14 States workers, including blue card workers,
15 who worked in agriculture during the preceding
16 fiscal year;

17 “(G) the number of nonimmigrant agricul-
18 tural workers issued a visa in the most recent
19 fiscal year who remain in the United States in
20 compliance with the terms of such visa;

21 “(H) the number of United States workers
22 who accepted jobs offered by employers using
23 the Electronic Job Registry during the pre-
24 ceeding fiscal year;

1 “(I) any growth or contraction of the
2 United States agricultural industry that has in-
3 creased or decreased the demand for agricul-
4 tural workers; and

5 “(J) any changes in the real wages paid to
6 agricultural workers in the United States as an
7 indication of a shortage or surplus of agricul-
8 tural labor.

9 “(d) REQUIREMENTS FOR NONIMMIGRANT AGRICUL-
10 TURAL WORKERS.—

11 “(1) ELIGIBILITY FOR NONIMMIGRANT AGRI-
12 CULTURAL WORKER STATUS.—

13 “(A) IN GENERAL.—An alien is not eligible
14 to be admitted to the United States as a non-
15 immigrant agricultural worker if the alien—

16 “(i) violated a material term or condi-
17 tion of a previous admission as a non-
18 immigrant agricultural worker during the
19 most recent 3-year period (other than a
20 contract agricultural worker who volun-
21 tarily abandons his or her employment be-
22 fore the end of the contract period or
23 whose employment is terminated by the
24 employer for cause);

1 “(ii) has not obtained successful clear-
2 ance of any security and criminal back-
3 ground checks required by the Secretary of
4 Homeland Security or any other examina-
5 tion required under this Act; or

6 “(iii)(I) departed from the United
7 States while subject to an order of exclu-
8 sion, deportation, or removal, or pursuant
9 to an order of voluntary departure; and

10 “(H)(aa) is outside of the United
11 States; or

12 “(bb) has reentered the United States
13 illegally after December 31, 2012 without
14 receiving consent to the alien’s reapplica-
15 tion for admission under section 212(a)(9).

16 “(B) WAIVER.—The Secretary may waive
17 the application of subparagraph (A)(iii) on be-
18 half of an alien if the alien—

19 “(i) is the spouse or child of a United
20 States citizen or lawful permanent resi-
21 dent;

22 “(ii) is the parent of a child who is a
23 United States citizen or lawful permanent
24 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 con-
6 tract agricultural worker is not employed in ag-
7 ricultural employment for a period not to ex-
8 ceed 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)(ii)(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)(iii)(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) may 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 visa or other
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.

9 “(B) CRITERIA.—The Secretary shall
10 grant designated agricultural employer status to
11 an employer who submits an registration for
12 such status that includes—

13 “(i) documentation that the employer
14 is engaged in agriculture;

15 “(ii) the estimated number of non-
16 immigrant agricultural workers the em-
17 ployer will need each year;

18 “(iii) the anticipated periods during
19 which the employer will need such workers;
20 and

21 “(iv) documentation establishing need
22 for a specified agricultural occupation or
23 occupations.

24 “(C) DESIGNATION.—

1 “(ii) to provide resources about the
2 Program, including best practices and
3 compliance related assistance and re-
4 sources or training to assist in retention of
5 such workers to agricultural employers.

6 “(E) DEPOSIT OF REGISTRATION FEE.—

7 All registration fees collected under subpara-
8 graph (A)(ii) shall be deposited in the Com-
9 prehensive Immigration Reform Trust Fund es-
10 tablished under section 6(a)(1) of the Border
11 Security, Economic Opportunity, and Immigra-
12 tion Modernization Act.

13 “(2) NONIMMIGRANT AGRICULTURAL WORKER
14 PETITION PROCESS.—

15 “(A) IN GENERAL.—Not later than 45
16 days before the date on which nonimmigrant
17 agricultural workers are needed, a designated
18 agricultural employer seeking to employ such
19 workers shall submit a petition to the Secretary
20 of Homeland Security that includes the employ-
21 er’s designated agricultural employer registra-
22 tion number.

23 “(B) ATTESTATION.—An application sub-
24 mitted under subparagraph (A) shall include an
25 attestation of the following

1 “(i) the number of named or unnamed
2 nonimmigrant agricultural workers the
3 designated agricultural employer is seeking
4 to employ during the applicable period of
5 employment;

6 “(ii) the total number of contract ag-
7 ricultural workers and of at-will agricul-
8 tural workers the employer will require for
9 each occupational category;

10 “(iii) the anticipated period, including
11 expected beginning and ending dates, dur-
12 ing which such employees will be needed;

13 “(iv) evidence of contracts or written
14 disclosures of employment terms and con-
15 ditions in accordance with the Migrant and
16 Seasonal Agricultural Worker Protection
17 Act (29 U.S.C. 1801 et seq.), which have
18 been provided to the nonimmigrant agricul-
19 tural workers, or a sample of such contract
20 or disclosure for unnamed workers;

21 “(v) the information submitted to the
22 State workforce agency pursuant to para-
23 graph (3)(A)(i);

1 “(vi) the record of United States
2 workers described in paragraph (3)(A)(iv)
3 on the date of the request;

4 “(vii) evidence of offers of employ-
5 ment made to United States workers as re-
6 quired under paragraph (3)(B); and

7 “(viii) that the employer has complied
8 with the conditions pursuant to (4)(A) and
9 (4)(B).

10 “(C) EMPLOYMENT AUTHORIZATION WHEN
11 CHANGING EMPLOYERS.—Nonimmigrant agri-
12 cultural workers in the United States who are
13 identified in a petition submitted pursuant to
14 subparagraph (A) and are in lawful status may
15 commence employment with their designated
16 agricultural employer after such employer has
17 submitted such petition to the Secretary of
18 Homeland Security.

19 “(3) EMPLOYMENT OF UNITED STATES WORK-
20 ERS.—

21 “(A) RECRUITMENT.—

22 “(i) FILING A JOB OFFER WITH THE
23 LOCAL OFFICE OF THE STATE WORKFORCE
24 AGENCY.—Not later than 60 days before
25 the date on which the employer desires to

1 employ a nonimmigrant agricultural work-
2 er, the employer shall submit the job post-
3 ing for such worker to the local office of
4 the State workforce agency where the job
5 site is located and authorize the posting of
6 the job opportunity on ‘America’s Job
7 Bank’ or other Electronic Job Registry for
8 a period of 45 days. Nothing in this clause
9 may be construed to require the employer
10 to file an interstate job order under section
11 653.500 of title 20, Code of Federal Regu-
12 lations.

13 “(ii) CONSTRUCTION.—Nothing in
14 clause (i) may be construed to cause a list-
15 ing referred to in clause (i) to be treated
16 as an interstate job order under section
17 653.500 of title 20, Code of Federal Regu-
18 lations (or similar successor regulation).

19 “(iii) RECORD OF UNITED STATES
20 WORKERS.—An employer shall keep a
21 record of all eligible, able, willing, and
22 qualified United States workers who apply
23 for agricultural employment with the em-
24 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 re-
12 cruitment period.

13 “(ii) BLUE CARD STATUS.—Except as
14 provided in clause (iii), the employer shall,
15 for each job to be filled by a nonimmigrant
16 agricultural worker, offer the job to any el-
17 igible alien with blue card status who—

18 “(I) applies for such job;

19 “(II) is equally or better qualified
20 for the job; and

21 “(III) will be available at the
22 time and place of need.

23 “(iii) EXCEPTION.—Notwithstanding
24 clauses (i) and (ii), the employer may hire
25 a nonimmigrant described in section

1 101(a)(15)(H)(ii)(a) for agricultural em-
 2 ployment if—

3 “(I) such worker worked for the
 4 employer for 3 years during the 4-
 5 year period ending on the date on
 6 which the program authorized under
 7 section 218 (as in effect on the date
 8 of the enactment of the Agricultural
 9 Worker Program Act of 2013) is ter-
 10 minated; and

11 “(II) the employer pays such
 12 worker the adverse effect wage rate
 13 calculated under subsection (f)(5).

14 “(4) ADDITIONAL PROGRAM REQUIREMENTS
 15 FOR DESIGNATED AGRICULTURAL EMPLOYERS.—
 16 Each designated agricultural employer shall comply
 17 with the following requirements:

18 “(A) NO DISPLACEMENT OF UNITED
 19 STATES WORKERS.—

20 “(i) IN GENERAL.—The employer
 21 shall not displace a United States worker
 22 employed by the employer, other than for
 23 good cause, during the period of employ-
 24 ment of the nonimmigrant agricultural
 25 worker and for a period of 30 days pre-

1 ceding such period in the occupation and
2 at the location of employment for which
3 the employer seeks to employ non-
4 immigrant agricultural workers.

5 “(ii) LABOR DISPUTE.—The employer
6 shall not employ a nonimmigrant agricul-
7 tural worker for a specific job for which
8 the employer is requesting a nonimmigrant
9 agricultural worker because the former oc-
10 cupant of the job is on strike or being
11 locked out in the course of a labor dispute.

12 “(B) GUARANTEE OF EMPLOYMENT FOR
13 CONTRACT AGRICULTURAL WORKERS.—

14 “(i) OFFER TO CONTRACT WORKER.—
15 The employer shall guarantee to offer con-
16 tract agricultural workers employment for
17 the hourly equivalent of at least 75 percent
18 of the work days of the total period of em-
19 ployment, beginning with the first work
20 day after the arrival of the worker at the
21 place of employment and ending on the ex-
22 piration date specified in the job offer. In
23 this clause, the term ‘hourly equivalent’
24 means the number of hours in the work
25 days as stated in the job offer and shall ex-

1 clude the worker's Sabbath and Federal
2 holidays. If the employer affords the con-
3 tract agricultural worker less employment
4 than the number of hours required under
5 this subparagraph, the employer shall pay
6 such worker the amount the worker would
7 have earned had the worker worked the
8 guaranteed number of hours.

9 “(ii) FAILURE TO WORK.—Any hours
10 which the worker fails to work, up to a
11 maximum of the number of hours specified
12 in the job offer for a work day, when the
13 worker has been offered an opportunity to
14 do so, and all hours of work actually per-
15 formed (including voluntary work in excess
16 of the number of hours specified in the job
17 offer in a work day, on the worker's Sab-
18 bath, or on Federal holidays) may be
19 counted by the employer in calculating
20 whether the period of guaranteed employ-
21 ment has been met.

22 “(iii) CONTRACT IMPOSSIBILITY.—If,
23 before the expiration of the period of em-
24 ployment specified in the job offer, the
25 services of a contract agricultural worker

1 are no longer required for reasons beyond
2 the control of the employer due to any
3 form of natural disaster, including a flood,
4 hurricane, freeze, earthquake, fire,
5 drought, plant or animal disease or pest
6 infestation, or regulatory drought, before
7 the guarantee in subparagraph (A) is ful-
8 filled, the employer—

9 “(I) may terminate the worker’s
10 employment;

11 “(II) shall fulfill the employment
12 guarantee described in subparagraph
13 (B) for the work days that have
14 elapsed from the first work day after
15 the arrival of the worker to the termi-
16 nation of employment;

17 “(III) shall make efforts to
18 transfer the worker to other com-
19 parable employment acceptable to the
20 worker; and

21 “(IV) if such a transfer does not
22 take place, shall provide the return
23 transportation required under sub-
24 paragraph (J).

25 “(C) WORKERS’ COMPENSATION.—

1 “(i) REQUIREMENT TO PROVIDE.—If
2 a job referred to in paragraph (3) is not
3 covered by the State workers’ compensa-
4 tion law, the employer shall provide, at no
5 cost to the nonimmigrant agricultural
6 worker, insurance covering injury and dis-
7 ease arising out of, and in the course of,
8 such job.

9 “(ii) BENEFITS.—The insurance re-
10 quired to be provided under clause (i) shall
11 provide benefits at least equal to those pro-
12 vided under and pursuant to State’s work-
13 ers’ compensation law for comparable em-
14 ployment.

15 “(D) PROHIBITION FOR USE FOR NON-
16 AGRICULTURAL SERVICES.—The employer may
17 not employ a nonimmigrant agricultural worker
18 for employment other than agricultural employ-
19 ment.

20 “(E) WAGES.—The employer shall pay the
21 wage required under subsection (f).

22 “(F) DEDUCTION OF WAGES.—The em-
23 ployer shall make only deductions from a non-
24 immigrant agricultural worker’s wages that are
25 authorized by law or are reasonable and cus-

1 tomary in the occupation and area of employ-
2 ment of such worker.

3 “(G) REQUIREMENT TO PROVIDE HOUSING
4 OR A HOUSING ALLOWANCE.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clauses (iv) and (v), a designated
7 agricultural employer shall offer to provide
8 a nonimmigrant agricultural worker with
9 housing in accordance with clause (ii) or
10 (iii).

11 “(ii) HOUSING.—An employer may
12 provide housing to a nonimmigrant agricul-
13 tural worker that meets—

14 “(I) applicable Federal standards
15 for temporary labor camps; or

16 “(II) applicable local standards
17 (or, in the absence of applicable local
18 standards, State standards) for rental
19 or public accommodation housing or
20 other substantially similar class of
21 habitation.

22 “(iii) HOUSING PAYMENTS.—

23 “(I) PUBLIC HOUSING.—If the
24 employer arranges public housing for
25 nonimmigrant agricultural workers

1 through a State, county, or local gov-
2 ernment program and such public
3 housing units normally require pay-
4 ments from tenants, such payments
5 shall be made by the employer directly
6 to the landlord.

7 “(II) DEPOSITS.—Deposits for
8 bedding or other similar incidentals
9 related to housing shall not be col-
10 lected from workers by employers who
11 provide housing for such workers.

12 “(III) DAMAGES.—The employer
13 may require any worker who is re-
14 sponsible for damage to housing that
15 did not result from normal wear and
16 tear related to habitation to reimburse
17 the employer for the reasonable cost
18 of repairing such damage.

19 “(iv) HOUSING ALLOWANCE ALTER-
20 NATIVE.—

21 “(I) IN GENERAL.—The employer
22 may provide a reasonable housing al-
23 lowance instead of providing housing
24 under clause (i). Upon the request of
25 a worker seeking assistance in locat-

1 ing housing, the employer shall make
2 a good faith effort to assist the work-
3 er in identifying and locating housing
4 in the area of intended employment.
5 An employer who offers a housing al-
6 lowance to a worker or assists a work-
7 er in locating housing, which the
8 worker occupies shall not be deemed a
9 housing provided under section 203 of
10 the Migrant and Seasonal Agricultural
11 Worker Protection Act (29 U.S.C.
12 1823) solely by virtue of providing
13 such housing allowance. No housing
14 allowance may be used for housing
15 that is owned or controlled by the em-
16 ployer.

17 “(II) CERTIFICATION REQUIRE-
18 MENT.—Contract agricultural workers
19 may only be provided a housing allow-
20 ance if the Governor of the State in
21 which the place of employment is lo-
22 cated certifies to the Secretary that
23 there is adequate housing available in
24 the area of intended employment for
25 migrant farm workers and contract

1 agricultural workers who are seeking
2 temporary housing while employed in
3 agricultural work. Such certification
4 shall expire after 3 years unless re-
5 newed by the Governor of the State.

6 ~~“(III) AMOUNT OF ALLOW-~~
7 ~~ANCE.—~~

8 ~~“(aa) NONMETROPOLITAN~~
9 ~~COUNTIES.—If the place of em-~~
10 ~~ployment of the workers provided~~
11 ~~an allowance under this clause is~~
12 ~~a nonmetropolitan county, the~~
13 ~~amount of the housing allowance~~
14 ~~under this clause shall be equal~~
15 ~~to the average fair market rental~~
16 ~~for existing housing in nonmetro-~~
17 ~~politan counties in the State in~~
18 ~~which the place of employment is~~
19 ~~located, as established by the~~
20 ~~Secretary of Housing and Urban~~
21 ~~Development pursuant to section~~
22 ~~8(e) of the United States Hous-~~
23 ~~ing Act of 1937 (42 U.S.C.~~
24 ~~1437f(e)), based on a 2-bedroom~~

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1 dwelling unit and an assumption
2 of 2 persons per bedroom.

3 “(bb) METROPOLITAN
4 COUNTIES.—If the place of em-
5 ployment of the workers provided
6 an allowance under this clause is
7 a metropolitan 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 metropoli-
12 tan 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(e) of the United States Hous-
18 ing Act of 1937 (42 U.S.C.
19 1437f(e)), based on a 2-bedroom
20 dwelling unit and an assumption
21 of 2 persons per bedroom.

22 “(v) EXCEPTION FOR COMMUTING
23 WORKERS.—Nothing in this subparagraph
24 may be construed to require an employer
25 to provide housing or a housing allowance

1 to workers who reside outside of the
2 United States if their place of residence is
3 within normal commuting distance and the
4 job site is within 50 miles of an inter-
5 national land border of the United States.

6 “(H) WORKSITE TRANSPORTATION FOR
7 CONTRACT WORKERS.—During the period a
8 designated agricultural employer employs a con-
9 tract worker, such employer shall, at the em-
10 ployer’s option, provide or reimburse the con-
11 tract worker for the cost of transportation from
12 the contract worker’s residence in the United
13 States to the contract worker’s place of employ-
14 ment.

15 “(I) REIMBURSEMENT OF TRANSPOR-
16 TATION TO PLACE OF EMPLOYMENT.—

17 “(i) IN GENERAL.—Except as pro-
18 vided in subclause (H) a contract agricul-
19 tural worker who completes at least 27
20 months under his or her contract with the
21 same designated agricultural employer
22 shall be reimbursed by that employer for
23 the cost of the worker’s transportation and
24 subsistence from the place of employment

1 to the place from which the worker came
2 from abroad to work for the employer.

3 “(ii) LIMITATION.—Except as pro-
4 vided in clause (iii), the amount of reim-
5 bursement provided under clause (i) to a
6 worker shall not exceed the lesser of—

7 “(I) the actual cost to the worker
8 of the transportation and subsistence
9 involved; or

10 “(II) the most economical and
11 reasonable common carrier transpor-
12 tation charges and subsistence costs
13 for the distance involved.

14 “(iii) DISTANCE TRAVELED.—The em-
15 ployer shall not be required to reimburse a
16 worker under clause (i) if—

17 “(I) the distance traveled is 100
18 miles or less; or

19 “(II) the worker is not residing
20 in employer-provided housing or hous-
21 ing secured through an allowance de-
22 scribed in subclause (I)(iv).

23 “(J) REIMBURSEMENT OF TRANSPOR-
24 TATION FROM PLACE OF EMPLOYMENT.—

25 “(i) IN GENERAL.—

1 “(I) IN GENERAL.—Except as
2 provided in subelause (II), a contract
3 agricultural worker who completes at
4 least 75 percent of a contract for a
5 designated agricultural employer shall
6 be reimbursed by the employer for the
7 cost of the worker’s transportation
8 and subsistence from the place of em-
9 ployment to the place from which the
10 worker came to work for the em-
11 ployer.

12 “(II) EXCEPTION.—If a contract
13 agricultural worker was employed by
14 another designated agricultural work-
15 er after terminating employment with
16 the designated agricultural employer
17 described in subelause (I) and before
18 returning to the place outside the
19 United States from which the worker
20 came, the subsequent designated agri-
21 cultural employer shall reimburse the
22 worker for the costs described in sub-
23 elause (I).

24 “(III) SINGLE TRIP.—A contract
25 agricultural worker is only entitled to

1 be reimbursed by a designated agri-
2 cultural employer under this subpara-
3 graph for travel to the place from
4 which the worker came at the time
5 the worker is leaving the Program.

6 “(ii) LIMITATION.—Except as pro-
7 vided in clause (iii), the amount of reim-
8 bursement provided under clause (i) to a
9 worker shall not exceed the lesser of—

10 “(I) the actual cost to the worker
11 of the transportation and subsistence
12 involved; or

13 “(II) the most economical and
14 reasonable common carrier transpor-
15 tation charges and subsistence costs
16 for the distance involved.

17 “(iii) DISTANCE TRAVELED.—The em-
18 ployer shall not be required to reimburse a
19 worker under clause (i) if—

20 “(I) the distance traveled is 100
21 miles or less; or

22 “(II) the worker is not residing
23 in employer-provided housing or hous-
24 ing secured through an allowance de-
25 scribed in subclause (I)(iv).

1 “(iv) EARLY TERMINATION.—If a con-
2 tract agricultural worker is laid off or the
3 worker’s employment is terminated for
4 contract impossibility (as described in sub-
5 paragraph (C)(iii)) before completing 75
6 percent of such contract, the employer
7 shall reimburse the worker for the costs
8 described in clause (i)(I).

9 “(5) VIOLATION OF PROGRAM REQUIRE-
10 MENTS.—If the Secretary determines, after an op-
11 portunity for a hearing, that a designated agricul-
12 tural employer has violated a term under this section
13 the Secretary may—

14 “(A) impose penalties, including fines; and

15 “(B) for serious violations, disqualify the
16 employer from future enrollment in the Pro-
17 gram for a period of not more than 3 years.

18 “(f) WAGES.—

19 “(1) WAGE RATE REQUIREMENT.—

20 “(A) IN GENERAL.—A nonimmigrant agri-
21 cultural worker employed by a designated agri-
22 cultural employer shall be paid the wage rate
23 for such employment set forth in paragraph (3).

24 “(B) WORKERS PAID ON A PIECE RATE OR
25 OTHER INCENTIVE BASIS.—If an employer pays

1 by the piece rate or other incentive method and
2 requires one or more minimum productivity
3 standards as a condition of job retention, such
4 standards shall be specified in the job offer and
5 be no more than those which have been nor-
6 mally required (at the time of the employee's
7 initial entry into the country as a nonimmigrant
8 agricultural worker) by other employers for the
9 activity in the geographic area of the job, unless
10 the Secretary approves a higher standard.

11 “(2) JOB CATEGORIES.—For purposes of para-
12 graph (1), each nonimmigrant agricultural worker
13 employed by such employer shall be assigned to 1 of
14 the following standard occupational classifications,
15 as defined by the Bureau of Labor Statistics:

16 “(A) First-Line Supervisors of Farming,
17 Fishing, and Forestry Workers (45-1011).

18 “(B) Animal Breeders (45-2021).

19 “(C) Graders and Sorters, Agricultural
20 Products (45-2041).

21 “(D) Agricultural equipment operator (45-
22 2091).

23 “(E) Farmworkers and Laborers, Crop,
24 Nursery, and Greenhouse (45-2092).

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1 “(bb) \$9.40 for fiscal year 2015;

2 and

3 “(cc) \$9.64 for fiscal year 2016;

4 and

5 “(IV) for the category described in

6 paragraph (2)(F)—

7 “(aa) \$10.82 for fiscal year

8 2014;

9 “(bb) \$11.09 for fiscal year

10 2015; and

11 “(cc) \$11.37 for fiscal year 2016;

12 “(B) SUBSEQUENT YEARS.—The Secretary

13 shall increase the hourly wage rates set forth in

14 clauses (i) through (iv) of subparagraph (A);

15 for each fiscal year after the fiscal years de-

16 scribed in subparagraph (A) by an amount

17 equal to—

18 “(i) 1.5 percent, if the percentage in-

19 crease in the Employment Cost Index for

20 wages and salaries during the previous fis-

21 cal year, as calculated by the Bureau of

22 Labor Statistics, is less than 1.5 percent;

23 “(ii) the percentage increase in such

24 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 prevailing wage for the next
10 fiscal year for each of the job categories set out
11 in subparagraphs (A) and (B) of paragraph (2).

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 and
16 Employment Survey to survey agricultural pro-
17 ducers and contractors and produce improved
18 wage data by State and the job categories set
19 out in subparagraphs (A) through (F) of para-
20 graph (2).

21 “~~(4)~~ CONSIDERATION.—In determining the
22 wage rate under paragraph (3), the Secretary may
23 consider appropriate factors, including—

24 “~~(A)~~ whether the employment of additional
25 alien workers at the prevailing 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 and Employment 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 “(6) EQUAL WAGES, BENEFITS, AND WORKING
7 CONDITIONS.—

8 “(A) PREFERENTIAL TREATMENT OF
9 ALIENS PROHIBITED.—

10 “(i) IN GENERAL.—The employer’s
11 job offer must offer to United States work-
12 ers no less than the same benefits, wages,
13 and working conditions that the employer
14 is offering, intends to offer, or will provide
15 to nonimmigrant workers. Conversely, no
16 job offer may impose on United States
17 workers any restrictions or obligations
18 which will not be imposed on the employ-
19 er’s nonimmigrants.

20 “(ii) SIMILARLY SITUATED U.S. WORK-
21 ERS.—Except as provided in paragraph
22 (3), all similarly situated U.S. workers em-
23 ployed at the same place of employment in
24 the same occupational classification as the
25 nonimmigrant workers must be provided

1 the same wages, benefits, and working con-
2 ditions described in this section.

3 “(iii) EXCEPTION.—Notwithstanding
4 subparagraph (2), an employer is not re-
5 quired to provide housing for similarly sit-
6 uated United States workers, other than
7 United States workers recruited and hired
8 pursuant to an offer of employment in con-
9 nection with an application.

10 “(B) ATTESTATION.—

11 “(i) IN GENERAL.—Each designated
12 agricultural employer shall include an at-
13 testation that the employer is or is not a
14 Program dependent employer in its peti-
15 tion for nonimmigrant agricultural workers
16 under paragraph (2).

17 “(ii) PROGRAM DEPENDENT EM-
18 PLOYER DETERMINATION.—Each des-
19 ignated agricultural employer shall annu-
20 ally determine whether the employer is a
21 Program dependent employer, with at least
22 60 percent of its employees who are not
23 United States workers, based upon—

24 “(I) the total number of employ-
25 ees employed by an employer during

1 the preceding calendar year, as evi-
2 denced by the employer's payroll
3 records; and

4 “(H) the employer's E-Verify
5 records indicating the citizenship and
6 alien status of each employee em-
7 ployed by the employer.

8 “(C) HOUSING EXCEPTION.—An employer
9 described in subparagraph (A) shall only be re-
10 quired to provide housing to United States
11 workers in accordance with subsection
12 (e)(4)(H) if such workers do not reside within
13 100 miles of their place of employment.

14 “(g) WORKER PROTECTIONS AND DISPUTE RESOLU-
15 TION.—

16 “(1) EQUALITY OF TREATMENT.—Non-
17 immigrant agricultural workers shall not be denied
18 any right or remedy under any Federal, State, or
19 local labor or employment law applicable to United
20 States workers engaged in agricultural employment.

21 “(2) APPLICABILITY OF THE MIGRANT AND
22 SEASONAL AGRICULTURAL WORKER PROTECTION
23 ACT.—

24 “(A) MIGRANT AND SEASONAL AGRICUL-
25 TURAL WORKER PROTECTION ACT.—Non-

1 immigrant agricultural workers shall be consid-
2 ered migrant agricultural workers for purposes
3 of the Migrant and Seasonal Agricultural Work-
4 er Protection Act (29 U.S.C. 1801 et seq.).

5 “(B) ELIGIBILITY OF NONIMMIGRANT AG-
6 RICULTURAL WORKERS FOR CERTAIN LEGAL
7 ASSISTANCE.—A nonimmigrant agricultural
8 worker shall be considered to be lawfully admit-
9 ted for permanent residence for purposes of es-
10 tablishing eligibility for legal services under the
11 Legal Services Corporation Act (42 U.S.C.
12 2996 et seq.) on matters relating to wages,
13 housing, transportation, and other employment
14 rights.

15 “(C) MEDIATION.—

16 “(i) FREE MEDIATION SERVICES.—
17 The Federal Mediation and Conciliation
18 Service shall be available to assist in re-
19 solving disputes arising under this section
20 between nonimmigrant agricultural work-
21 ers and designated agricultural employers
22 without charge to the parties.

23 “(ii) COMPLAINT.—If a nonimmigrant
24 agricultural worker files a complaint under
25 section 504 of the Migrant and Seasonal

1 Agricultural Worker Protection Act (29
2 U.S.C. 1854), not later than 60 days after
3 the filing of proof of service of the com-
4 plaint, a party to the action may file a re-
5 quest with the Federal Mediation and Con-
6 ciliation Service to assist the parties in
7 reaching a satisfactory resolution of all
8 issues involving all parties to the dispute.

9 “(iii) NOTICE.—Upon filing a request
10 under clause (ii) and giving of notice to the
11 parties, the parties shall attempt mediation
12 within the period specified in clause (iv).

13 “(iv) 90-DAY LIMIT.—The Federal
14 Mediation and Conciliation Service may
15 conduct mediation or other nonbinding dis-
16 pute resolution activities for a period not
17 to exceed 90 days beginning on the date on
18 which the Federal Mediation and Concilia-
19 tion Service receives a request for assist-
20 ance under clause (ii) unless the parties
21 agree to an extension of such period.

22 “(v) AUTHORIZATION OF APPROPRIA-
23 TIONS.—

24 “(I) IN GENERAL.—Subject to
25 clause (II), there are authorized to be

1 appropriated to the Federal Mediation
2 and Conciliation Service \$500,000 for
3 each fiscal year to carry out this sub-
4 paragraph.

5 “(II) MEDIATION.—Notwith-
6 standing any other provision of law,
7 the Director of the Federal Mediation
8 and Conciliation Service is author-
9 ized—

10 “(aa) to conduct the medi-
11 ation or other dispute resolution
12 activities from any other account
13 containing amounts available to
14 the Director; and

15 “(bb) to reimburse such ac-
16 count with amounts appropriated
17 pursuant to subclause (I).

18 “(vi) PRIVATE MEDIATION.—If all
19 parties agree, a private mediator may be
20 employed as an alternative to the Federal
21 Mediation and Conciliation Service.

22 “(3) OTHER RIGHTS.—Nonimmigrant agricul-
23 tural workers shall be entitled to the rights granted
24 to other classes of aliens under sections 242(h) and
25 245E.

1 “(4) WAIVER OF RIGHTS.—Agreements by non-
2 immigrant agricultural workers to waive or modify
3 any rights or protections under this section shall be
4 considered void or contrary to public policy except as
5 provided in a collective bargaining agreement with a
6 bona fide labor organization.

7 “(h) ENFORCEMENT AUTHORITY.—

8 “(1) REVIEW.—The Secretary of Homeland Se-
9 curity shall review petitions submitted by designated
10 agricultural employers under subsection (e)(2) for
11 completeness or obvious inaccuracies.

12 “(2) INVESTIGATION OF COMPLAINTS.—

13 “(A) AGGRIEVED PERSON OR THIRD-PARTY
14 COMPLAINTS.—

15 “(i) PROCESS.—The Secretary of
16 Labor shall establish a process for the re-
17 ceipt, investigation, and disposition of com-
18 plaints respecting a designated agricultural
19 employer’s failure to meet a condition spec-
20 ified in subsection (e), or an employer’s
21 misrepresentation of material facts in a pe-
22 tition under subsection (e)(2).

23 “(ii) FILING.—Any aggrieved person
24 or organization, including bargaining rep-
25 resentatives, may file a complaint referred

1 to in clause (i) not later than 1 year after
2 the date of the failure or misrepresenta-
3 tion, respectively.

4 “~~(iii) INVESTIGATION OR HEARING.—~~

5 The Secretary of Labor shall conduct an
6 investigation if there is reasonable cause to
7 believe that such failure or misrepresenta-
8 tion has occurred.

9 “~~(B) DETERMINATION ON COMPLAINT.—~~

10 Under such process, the Secretary of Labor
11 shall provide, not later than 30 days after the
12 date on which such a complaint is filed, for a
13 determination as to whether or not a reasonable
14 basis exists to make a finding described in sub-
15 paragraph (C), (D), (E), or (F). If the Sec-
16 retary of Labor determines that such a reason-
17 able basis exists, the Secretary of Labor shall
18 provide for notice of such determination to the
19 interested parties and an opportunity for a
20 hearing on the complaint, in accordance with
21 section 556 of title 5, United States Code, with-
22 in 60 days after the date of the determination.
23 If such a hearing is requested, the Secretary of
24 Labor shall make a finding concerning the mat-
25 ter not later than 60 days after the date of the

1 hearing. In the case of similar complaints re-
2 specting the same applicant, the Secretary of
3 Labor may consolidate the hearings under this
4 subparagraph on such complaints.

5 “(C) FAILURE TO MEET CONDITIONS.—If
6 the Secretary of Labor finds, after notice and
7 opportunity for a hearing, a failure to meet a
8 condition under subsection (e) or (f), or made
9 a material misrepresentation of fact in a peti-
10 tion under subsection (e)(2)—

11 “(i) the Secretary of Labor shall no-
12 tify the Secretary of such finding and may,
13 in addition, impose such other administra-
14 tive remedies (including civil money pen-
15 alties in an amount not to exceed \$1,000
16 per violation) as the Secretary of Labor
17 determines to be appropriate; and

18 “(ii) the Secretary may disqualify the
19 designated agricultural employer from the
20 employment of nonimmigrant agricultural
21 workers for a period of 1 year.

22 “(D) WILLFUL FAILURES AND WILLFUL
23 MISREPRESENTATIONS.—If the Secretary of
24 Labor finds, after notice and opportunity for
25 hearing, a willful failure to meet a condition

1 under subsection (e) or (f) or a willful misrepre-
2 sentation of a material fact in an application or
3 petition under paragraph (1) or (2) of sub-
4 section (e)—

5 “(i) the Secretary of Labor shall no-
6 tify the Secretary of such finding and may,
7 in addition, impose such other administra-
8 tive remedies (including civil money pen-
9 alties in an amount not to exceed \$5,000
10 per violation) as the Secretary of Labor
11 determines to be appropriate;

12 “(ii) the Secretary of Labor may seek
13 appropriate legal or equitable relief to ef-
14 fectuate the purposes of subsection (e)(8);
15 and

16 “(iii) the Secretary may disqualify the
17 designated agricultural employer from the
18 employment of nonimmigrant agricultural
19 workers for a period of 2 years.

20 “(E) DISPLACEMENT OF UNITED STATES
21 WORKERS.—If the Secretary of Labor finds,
22 after notice and opportunity for hearing, a will-
23 ful failure to meet a condition under subsection
24 (e) or (f) or a willful misrepresentation of a ma-
25 terial fact in an application or petition under

1 paragraph (1) or (2) of subsection (c), in the
2 course of which failure or misrepresentation the
3 employer displaced a United States worker em-
4 ployed by the employer during the period of em-
5 ployment on the employer's petition under sub-
6 section (c)(2) or during the period of 30 days
7 preceding such period of employment—

8 “(i) the Secretary of Labor shall no-
9 tify the Secretary of such finding and may,
10 in addition, impose such other administra-
11 tive remedies (including civil money pen-
12 alties in an amount not to exceed \$15,000
13 per violation) as the Secretary of Labor
14 determines to be appropriate; and

15 “(ii) the Secretary may disqualify the
16 employer from the employment of non-
17 immigrant agricultural workers for a pe-
18 riod of 3 years.

19 “(F) FAILURES TO PAY WAGES OR RE-
20 QUIRED BENEFITS.—If the Secretary of Labor
21 finds, after notice and opportunity for a hear-
22 ing, that the employer has failed to pay the
23 wages, or provide the housing allowance, trans-
24 portation, subsistence reimbursement, or guar-
25 antee of employment required under subsection

1 (e)(4) and (f), the Secretary of Labor shall as-
2 sess payment of back wages, or other required
3 benefits, due any United States worker or non-
4 immigrant agricultural worker employed by the
5 employer in the specific employment in ques-
6 tion. The back wages or other required benefits
7 required under subsection (e) and (f) shall be
8 equal to the difference between the amount that
9 should have been paid and the amount that ac-
10 tually was paid to such worker.

11 “(G) DISPOSITION OF PENALTIES.—Civil
12 penalties collected under this paragraph shall be
13 deposited into the Comprehensive Immigration
14 Reform Trust Fund established under section
15 6(a)(1) of the Border Security, Economic Op-
16 portunity, and Immigration Modernization Act.

17 “(3) LIMITATIONS ON CIVIL MONEY PEN-
18 ALTIES.—The Secretary of Labor shall not impose
19 total civil money penalties with respect to a petition
20 under subsection (e)(2) in excess of \$90,000.

21 “(4) ELECTION.—A nonimmigrant agricultural
22 worker who has filed an administrative complaint
23 with the Secretary of Labor may not maintain a civil
24 action under paragraph (2) unless a complaint based
25 on the same violation filed with the Secretary of

1 Labor under subsection (a)(1) is withdrawn before
2 the filing of such action, in which case the rights
3 and remedies available under this subsection shall be
4 exclusive.

5 “(5) PRECLUSIVE EFFECT.—Any settlement by
6 a nonimmigrant agricultural worker, a designated
7 agricultural employer, or any person reached
8 through the mediation process required under sub-
9 section (g)(2)(C) shall preclude any right of action
10 arising out of the same facts between the parties in
11 any Federal or State court or administrative pro-
12 ceeding, unless specifically provided otherwise in the
13 settlement agreement.

14 “(6) SETTLEMENTS.—Any settlement by the
15 Secretary of Labor on behalf of a designated agricul-
16 tural worker on behalf of a nonimmigrant agricul-
17 tural worker of a complaint filed with the Secretary
18 of Labor under this section or any finding by the
19 Secretary of Labor under this subsection shall pre-
20 clude any right of action arising out of the same
21 facts between the parties under any Federal or State
22 court or administrative proceeding, unless specifi-
23 cally provided otherwise in the settlement agreement.

24 “(7) STATUTORY CONSTRUCTION.—Nothing in
25 this subsection may be construed as limiting the au-

1 thority of the Secretary of Labor to conduct any
2 compliance investigation under any other labor law,
3 including any law affecting migrant and seasonal ag-
4 ricultural workers; or, in the absence of a complaint
5 under this section, under paragraph (1), (3), or (4)
6 of subsection (e), in the settlement agreement.

7 “(8) DISCRIMINATION PROHIBITED.—It is a
8 violation of this subsection for any person to intimi-
9 date, threaten, restrain, coerce, blacklist, discharge,
10 or in any other manner discriminate against an em-
11 ployee, including a former employee or an applicant
12 for employment, because the employee—

13 “(A) has disclosed information to the em-
14 ployer, or to any other person, that the em-
15 ployee reasonably believes evidences a violation
16 of subsection (e), or any rule or regulation re-
17 lating to subsection (e); or

18 “(B) cooperates or seeks to cooperate in an
19 investigation or other proceeding concerning the
20 employer’s compliance with the requirements
21 under subsection (e) or any rule or regulation
22 pertaining to subsection (e).

23 “(9) ROLE OF ASSOCIATIONS.—

24 “(A) VIOLATION BY A MEMBER OF AN AS-
25 SOCIATION.—

1 “(i) IN GENERAL.—If an association
2 acting as the agent of an employer files an
3 application on behalf of such employer, the
4 employer is fully responsible for such appli-
5 cation, and for complying with the terms
6 and conditions of subsection (c). If such an
7 employer is determined to have violated
8 any requirement described in this sub-
9 section, the penalty for such violation shall
10 apply only to that employer except as pro-
11 vided in clause (ii).

12 “(ii) COLLECTIVE RESPONSIBILITY.—
13 If the Secretary of Labor determines that
14 the association or other members of the as-
15 sociation participated in, had knowledge of,
16 or reason to know of a violation described
17 in clause (i), the penalty shall also be in-
18 voked against the association and complicit
19 association members.

20 “(B) VIOLATIONS BY AN ASSOCIATION
21 ACTING AS AN EMPLOYER.—

22 “(i) IN GENERAL.—If an association
23 filing an application as a sole or joint em-
24 ployer is determined to have violated any
25 requirement described in this section, the

1 penalty for such violation shall apply only
2 to the association except as provided in
3 clause (ii).

4 “(ii) MEMBER RESPONSIBILITY.—If
5 the Secretary of Labor determines that 1
6 or more association members participated
7 in, had knowledge of, or reason to know of
8 the violation described in clause (i), the
9 penalty shall be invoked against all
10 complicit association members.

11 “(i) SPECIAL NONIMMIGRANT VISA PROCESSING AND
12 WAGE DETERMINATION PROCEDURES FOR CERTAIN AG-
13 RICULTURAL OCCUPATIONS.—

14 “(1) FINDING.—Certain industries possess
15 unique occupational characteristics that necessitate
16 the Secretary of Agriculture adopt special proce-
17 dures relating to housing, pay, and visa program ap-
18 plication requirements for those industries.

19 “(2) SPECIAL PROCEDURES INDUSTRIES DE-
20 FINED.—In this subsection, the term ‘Special Proce-
21 dures Industries’ means—

22 “(A) shepherding and goat herding;

23 “(B) itinerant commercial beekeeping and
24 pollination;

25 “(C) open range production of livestock;

1 ~~“(D) itinerant animal shearing;~~
2 ~~“(E) custom combining industries; and~~
3 ~~“(F) any other industry designated by the~~
4 Secretary, upon petition by an employer, as a
5 Special Procedures Industry.

6 ~~“(3) WORK LOCATIONS.—The Secretary shall~~
7 allow designated agricultural employers in a Special
8 Procedures Industry that do not operate in a single
9 fixed-site location to provide, as part of application
10 and job description under the Program, a list of an-
11 ticipated work locations, which—

12 ~~“(A) may include an anticipated itinerary;~~
13 and

14 ~~“(B) may be subsequently amended by the~~
15 employer, after notice to the Secretary.

16 ~~“(4) WAGE RATES.—The Secretary may estab-~~
17 lish monthly, weekly, or biweekly wage rates for oc-
18 cupations in a Special Procedures Industry for a
19 State or other geographic area. For an employer in
20 those Special Industries that typically pay a monthly
21 wage, the Secretary shall require that workers will
22 be paid not less frequently than monthly and at a
23 rate no less than the legally required monthly cash
24 wage for such employer as of the date of enactment

1 and in an amount as re-determined annually by the
2 Secretary of Agriculture through rulemaking.

3 “(5) HOUSING.—The Secretary shall allow for
4 the provision of housing or a housing allowance by
5 employers in Special Procedures Industries and
6 allow housing suitable for workers employed in re-
7 mote locations.

8 “(6) ALLERGY LIMITATION.—An employer en-
9 gaged in the commercial beekeeping or pollination
10 services industry may require that an applicant be
11 free from bee pollen or honey-related allergies.

12 “(7) APPLICATION.—An individual employer in
13 Special Procedures Industry may file visa program
14 applications on its own behalf, including with use of
15 an agent, or in conjunction with an association of
16 employers, and in any case the employer’s applica-
17 tion may be part of several related applications sub-
18 mitted simultaneously that constitute a master ap-
19 plication.

20 “(8) RULEMAKING.—The Secretary of Agri-
21 culture, after consultation with employers and em-
22 ployee representatives, shall publish for notice and
23 comment proposed regulations relating to housing,
24 pay and application procedures for Special Proce-
25 dure Industries.

1 ~~(SEVIS)~~ and the SEVIS H tracking sys-
2 tem administered by U.S. Immigration and
3 Customs Enforcement;

4 “(ii) monitor the presence and em-
5 ployment of nonimmigrant agricultural
6 workers; and

7 “(iii) assist in ensuring the compli-
8 ance of designated agricultural employers
9 and nonimmigrant agricultural workers
10 with the requirements of the Program.”.

11 (b) **RULEMAKING.**—The Secretary of Agriculture
12 shall issue regulations to carry out section 218A of the Im-
13 migration and Nationality Act, as added by subsection (a),
14 not later than 1 year after the date of the enactment of
15 this Act.

16 (c) **CLERICAL AMENDMENT.**—The table of contents
17 in the first section of the Immigration and Nationality Act
18 (8 U.S.C. 1101 et seq.) is amended by inserting after the
19 item relation to section 219 the following:

“Sec. 218A. Nonimmigrant agricultural worker program.”.

20 (d) **EFFECTIVE DATE.**—The amendments made by
21 this section shall take effect on October 1, 2014.

22 **SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM.**

23 (a) **SUNSET OF PROGRAM.**—An employer may not pe-
24 tition to employ an alien present in the United States pur-
25 suant to section 101(a)(15)(H)(ii)(a) of the Immigration

1 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))
2 after the date that is 1 year after the effective date of
3 the regulations issued pursuant to section 2241(b).

4 (b) CONFORMING AMENDMENTS.—

5 (1) REPEAL OF H-2A NONIMMIGRANT CAT-
6 EGORY.—Section 101(a)(15)(H)(ii) of the Immigra-
7 tion and Nationality Act (8 U.S.C.
8 1101(a)(15)(H)(ii)) is amended by striking sub-
9 clause (a).

10 (2) REPEAL OF ADMISSION REQUIREMENTS FOR
11 H-2A WORKER.—Section 218 of the Immigration and
12 Nationality Act (8 U.S.C. 1188) is repealed.

13 (3) CONFORMING AMENDMENTS.—

14 (A) AMENDMENT OF PETITION REQUIRE-
15 MENTS.—Section 214(c)(1) of the Immigration
16 and Nationality Act (8 U.S.C. 1184(g)(9)) is
17 amended by striking “For purposes of this sub-
18 section” and all that follows.

19 (4) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take effect on the date that
21 is 1 year after the effective date of the regulations
22 issued pursuant to section 2241(b).

1 **SEC. 2234. REPORTS TO CONGRESS ON NONIMMIGRANT AG-**
2 **RICULTURAL WORKERS.**

3 (a) ANNUAL REPORT BY SECRETARY OF AGRICULTURE.—Not later than September 30 of each year, the
4 Secretary of Agriculture shall submit a report to Congress
5 that identifies, for the previous year, the number,
6 disaggregated by State and by occupation, of—

8 (1) job opportunities approved for employment
9 of aliens admitted pursuant to clause (iii) or clause
10 (iv) of section 101(a)(15)(W) of the Immigration
11 and Nationality Act, as added by section 2232; and

12 (2) aliens actually admitted pursuant to each
13 such clause.

14 (b) ANNUAL REPORT BY SECRETARY OF HOMELAND
15 SECURITY.—Not later than September 30 of each year,
16 the Secretary shall submit a report to Congress that iden-
17 tifies, for the previous year, the number of aliens described
18 in subsection (a)(2) who—

19 (1) violated the terms of the nonimmigrant ag-
20 ricultural worker program established under section
21 218A(b) of the Immigration and Nationality Act, as
22 added by section 2232; and

23 (2) have not departed from the United States.

1 **CHAPTER 3—OTHER PROVISIONS**

2 **SEC. 2241. RULEMAKING.**

3 (a) **CONSULTATION REQUIREMENT.**—In the course of
4 promulgating any regulation necessary to implement this
5 subtitle, or the amendments made by this subtitle, the Sec-
6 retary, the Secretary of Agriculture, the Secretary of
7 Labor, and the Secretary of State shall regularly consult
8 with each other.

9 (b) **DEADLINE FOR ISSUANCE OF REGULATIONS.**—
10 Except as provided in section 2232(b), all regulations to
11 implement this subtitle and the amendments made by this
12 subtitle shall be issued not later than 6 months after the
13 date of the enactment of this Act.

14 **SEC. 2242. REPORTS TO CONGRESS.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Secretary and the Secretary of Agri-
17 culture shall jointly submit a report to Congress that de-
18 scribes the measures being taken and the progress made
19 in implementing this subtitle and the amendments made
20 by this subtitle.

21 **SEC. 2243. EFFECTIVE DATE.**

22 This subtitle and the amendments made by this sub-
23 title, except for sections 2221, 2242, and 2243, shall take
24 effect on the date on which the regulations required under
25 section 2241(c) are issued, regardless of whether such reg-

1 ulations are issued on an interim basis or on any other
2 basis.

3 **Subtitle C—Future Immigration**

4 **SEC. 2301. MERIT-BASED POINTS TRACK ONE.**

5 (a) IN GENERAL.—

6 (1) WORLDWIDE LEVEL OF MERIT-BASED IMMI-
7 GRANTS.—Section 201(e) (8 U.S.C. 1151(e)) is
8 amended to read as follows:

9 “(e) WORLDWIDE LEVEL OF MERIT-BASED IMMI-
10 GRANTS.—

11 “(1) IN GENERAL.—

12 “(A) NUMERICAL LIMITATION.—Subject to
13 paragraphs (2), (3), and (4), the worldwide
14 level of merit-based immigrants is equal to
15 120,000 for each fiscal year.

16 “(B) STATUS.—An alien admitted on the
17 basis of a merit-based immigrant visa under
18 this section shall have the status of an alien
19 lawfully admitted for permanent residence.

20 “(2) ANNUAL INCREASE.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B) and paragraph (3), if in any fiscal
23 year the worldwide level of visas available for
24 merit-based immigrants under this section—

1 “(i) is less than 75 percent of the
2 number of applicants for such fiscal year,
3 the worldwide level shall increase by 5 per-
4 cent for the next fiscal year; and

5 “(ii) is equal to or more than 75 per-
6 cent of such number; the worldwide level
7 for the next fiscal year shall be the same
8 as the worldwide level for such fiscal year,
9 minus any amount added to the worldwide
10 level for such fiscal year under paragraph
11 (4).

12 “(B) LIMITATION ON INCREASE.—The
13 worldwide level of visas available for merit-
14 based immigrants shall not exceed 250,000.

15 “(3) EMPLOYMENT CONSIDERATION.—The
16 worldwide level of visas available for merit-based im-
17 migrants may not be increased for a fiscal year
18 under paragraph (2) if the annual average unem-
19 ployment rate for the civilian labor force 18 years or
20 over in the United States, as determined by the Bu-
21 reau of Labor Statistics, for such previous fiscal
22 year is more than 8½ percent.

23 “(4) RECAPTURE OF UNUSED VISAS.—The
24 worldwide level of merit-based immigrants described
25 in paragraph (1) for a fiscal year shall be increased

1 by the difference (if any) between the worldwide
2 level established under paragraph (1) for the pre-
3 vious fiscal year and the number of visas actually
4 issued under this subsection during that fiscal year.
5 Such visas shall be allocated for the following year
6 pursuant to section 203(c)(3).”.

7 (2) MERIT-BASED IMMIGRANTS.—Section 203
8 (8 U.S.C. 1153), as amended by section 213, is fur-
9 ther amended by inserting after subsection (b) the
10 following:

11 “(c) MERIT-BASED IMMIGRANTS.—

12 “(1) FISCAL YEARS 1 THROUGH 4.—For the
13 first 4 fiscal years beginning after the date of enact-
14 ment of the Border Security, Economic Opportunity,
15 and Immigration Modernization Act, the worldwide
16 level of merit-based immigrant visas made available
17 under section 201(e)(1) shall be available for aliens
18 described in section 203(b)(3) and in addition to any
19 visas available for such aliens under such section.

20 “(2) SUBSEQUENT FISCAL YEARS.—Beginning
21 with the fifth fiscal year beginning after the date of
22 the enactment of the Border Security, Economic Op-
23 portunity, and Immigration Modernization Act,
24 aliens subject to the worldwide level specified in sec-

1 tion 201(e) for merit-based immigrants shall be allo-
2 cated as follows:

3 “(A) 50 percent shall be available to appli-
4 cants with the highest number of points allo-
5 cated under tier 1 in paragraph (4).

6 “(B) 50 percent shall be available to appli-
7 cants with the highest number of points allo-
8 cated under tier 2 in paragraph (5).

9 “(3) UNUSED VISAS.—If the total number of
10 visas allocated to tier 1 or tier 2 for a fiscal year
11 are not granted during that fiscal year, such number
12 may be added to the number of visas available sec-
13 tion 201(e)(1) for the following fiscal year and allo-
14 cated as follows:

15 “(A) If the unused visas were allocated for
16 tier 1 in a fiscal year, $\frac{2}{3}$ of such visas shall be
17 available for aliens allocated visas under tier 1
18 in the following fiscal year and $\frac{1}{3}$ of such visas
19 shall be available for aliens allocated visas
20 under either tier 1 or tier 2 in the following fis-
21 cal year.

22 “(B) If the unused visas were allocated for
23 tier 2 in a fiscal year, $\frac{2}{3}$ of such visas shall be
24 available for aliens allocated visas under tier 2
25 in the following fiscal year and $\frac{1}{3}$ of such visas

1 shall be available for aliens allocated visas
2 under either tier 1 or tier 2 in the following fis-
3 eal year.

4 “(4) TIER 1.—The Secretary shall allocate
5 points to each alien seeking to be a tier 1 merit-
6 based immigrant as follows:

7 “(A) EDUCATION.—

8 “(i) IN GENERAL.—An alien may re-
9 ceived points under only one of the fol-
10 lowing categories:

11 “(I) An alien who has received a
12 doctorate degree shall be allocated 15
13 points.

14 “(II) An alien who has received a
15 master’s degree shall be allocated 10
16 points.

17 “(ii) An alien who has received a
18 bachelor’s degree from an institution of
19 higher education (as defined in section
20 101(a) of the Higher Education Act of
21 1965 (20 U.S.C. 1001(a)) shall be allo-
22 cated 5 points.

23 “(B) EMPLOYMENT EXPERIENCE.—An
24 alien shall be allocated not more than 20 points
25 as follows:

1 “(i) 3 points for each year the alien
2 has been lawfully employed in a zone 5 oc-
3 cupation in the United States.

4 “(ii) 2 points for each year the alien
5 has been lawfully employed in a zone 4 oc-
6 cupation in the United States.

7 “(C) EMPLOYMENT RELATED TO EDU-
8 CATION.—An alien who in the United States
9 and is employed full-time or has an offer of full-
10 time employment in a field related to the alien’s
11 education—

12 “(i) in a zone 5 occupation shall be al-
13 located 10 points; or

14 “(ii) in a zone 4 occupation shall be
15 allocated 8 points.

16 “(D) ENTREPRENEURSHIP.—An alien who
17 is an entrepreneur in business that employs at
18 least 2 employee in a zone 4 occupation or a
19 zone 5 occupation shall be allocated 10 points.

20 “(E) HIGH DEMAND OCCUPATION.—An
21 alien who is employed full-time in the United
22 States or has an offer of full-time employment
23 in a high demand occupation high demand tier
24 1 occupation shall be allocated 10 points.

1 “(F) CIVIC INVOLVEMENT.—An alien who
2 has attested that he or she has engaged in a
3 significant amount of community service, as de-
4 termined by the Secretary, shall be allocated 2
5 points.

6 “(G) ENGLISH LANGUAGE.—An alien who
7 received a score of 80 or more on the Test of
8 English as a Foreign Language, or an equiva-
9 lent score on a similar test, as determined by
10 the Secretary, shall be allocated points 10
11 points.

12 “(H) SIBLINGS AND MARRIED SONS AND
13 DAUGHTERS OF CITIZENS.—An alien who is the
14 sibling of a citizen of the United States or who
15 is more than 31 years of age and is the married
16 son or married daughter of a citizen of the
17 United States shall be allocated 10 points.

18 “(I) AGE.—An alien who is—

19 “(i) between 18 and 24 years of age
20 shall be allocated 8 points;

21 “(ii) between 25 and 32 years of age
22 shall be allocated 6 points; or

23 “(iii) between 33 and 37 years of age
24 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 occupation or zone 2
21 occupation 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 ; good
9 safety record, and an increases in pay.

10 “(E) CIVIC INVOLVEMENT.—An alien who
11 has demonstrated significant shall civic involve-
12 ment shall be allocated 2 points.

13 “(F) ENGLISH LANGUAGE.—An alien who
14 received a score on the Test of English as a
15 Foreign Language, or an equivalent score on a
16 similar test, as determined by the Secretary of
17 Homeland Security of—

18 “(i) 75 or more shall be allocated
19 points 10 points; or

20 “(ii) more than 54 and less than 75
21 shall be allocated 5 points.

22 “(G) SIBLINGS AND MARRIED SONS AND
23 DAUGHTERS OF CITIZENS.—An alien who is the
24 sibling of a citizen of the United States or is
25 over the age of 31 and is the married son or

1 married daughter of a citizen of the United
2 States shall be allocated 10 points.

3 “(H) AGE.—An alien who is—

4 “(i) between 18 and 24 years of age
5 shall be allocated 8 points;

6 “(ii) between 25 and 32 years of age
7 shall be allocated 6 points; or

8 “(iii) between 33 and 37 years of age
9 shall be allocated 4 points.

10 “(I) COUNTRY OF ORIGIN.—An alien who
11 is a national of a country of which fewer than
12 50,000 nationals were lawfully admitted to per-
13 manent residence in the United States in the
14 previous 5 years shall be allocated 5 points.

15 “(6) FEE.—An alien who is allocated a visa
16 under this section shall pay a fee of \$500.

17 “(7) ELIGIBILITY OF ALIENS IN REGISTERED
18 PROVISIONAL IMMIGRANT STATUS.—An alien who
19 was granted registered provisional immigrant status
20 may be granted a merit-based immigrant visa under
21 section 201(e) and may begin accruing points under
22 subsections (b), (d), and (e) no earlier than the date
23 that is 10 years after the date of the enactment of
24 the Border Security, Economic Opportunity, and
25 Immigration Modernization Act.

1 “(8) INELIGIBILITY OF ALIENS WITH PENDING
2 OR APPROVED PETITIONS.—An alien who has a peti-
3 tion pending or approved in another immigrant cat-
4 egory under this section or section 201 may not
5 apply for a merit-based immigrant visa.

6 “(9) DEFINITIONS.—In this subsection:

7 “(A) HIGH DEMAND TIER 1 OCCUPA-
8 TION.—The term ‘high demand tier 1 occupa-
9 tion’ means 1 of the 5 occupations for which
10 the highest number of nonimmigrants described
11 in section 101(a)(15)(H)(i) were sought to be
12 admitted by employers during the previous fis-
13 cal year.

14 “(B) HIGH DEMAND TIER 2 OCCUPA-
15 TION.—The term ‘high demand tier 2 occupa-
16 tion’ means 1 of the 5 occupations for which
17 the highest number of positions were sought to
18 become registered positions by employers under
19 section 220(e) during the previous fiscal year.

20 “(C) SECRETARY.—The term ‘Secretary’
21 means the Secretary of Homeland Security.

22 “(D) ZONE 1 OCCUPATION.—The term
23 ‘zone 1 occupation’ means an occupation that
24 requires little or no preparation and is classified
25 as a zone 1 occupation on—

1 “(i) the Occupational Information
2 Network Database (O*NET) on the date
3 of the enactment of this Act; or

4 “(ii) such Database or a similar suc-
5 cessor database, as designated by the Sec-
6 retary of Labor, after the date of the en-
7 actment of this Act.

8 “(E) ZONE 2 OCCUPATION.—The term
9 ‘zone 2 occupation’ means an occupation that
10 requires some preparation and is classified as a
11 zone 2 occupation on—

12 “(i) the Occupational Information
13 Network Database (O*NET) on the date
14 of the enactment of this Act; or

15 “(ii) such Database or a similar suc-
16 cessor database, as designated by the Sec-
17 retary of Labor, after the date of the en-
18 actment of this Act.

19 “(F) ZONE 3 OCCUPATION.—The term
20 ‘zone 3 occupation’ means an occupation that
21 requires medium preparation and is classified
22 as a zone 3 occupation on—

23 “(i) the Occupational Information
24 Network Database (O*NET) on the date
25 of the enactment of this Act; or

1 “(ii) such Database or a similar suc-
2 cessor database, as designated by the Sec-
3 retary of Labor, after the date of the en-
4 actment of this Act.

5 “(G) ZONE 4 OCCUPATION.—The term
6 ‘zone 3 occupation’ means an occupation that
7 requires considerable preparation and is classi-
8 fied as a zone 4 occupation on—

9 “(i) the Occupational Information
10 Network Database (O*NET) on the date
11 of the enactment of this Act; or

12 “(ii) such Database or a similar suc-
13 cessor database, as designated by the Sec-
14 retary of Labor, after the date of the en-
15 actment of this Act.

16 “(H) ZONE 5 OCCUPATION.—The term
17 ‘zone 5 occupation’ means an occupation that
18 requires extensive preparation and is classified
19 as a zone 5 occupation on—

20 “(i) the Occupational Information
21 Network Database (O*NET) on the date
22 of the enactment of this Act; or

23 “(ii) such Database or a similar suc-
24 cessor database, as designated by the Sec-

1 retary of Labor, after the date of the en-
2 actment of this Act.”.

3 (b) **MODIFICATION OF POINTS.**—The Secretary may
4 submit to Congress a proposal to modify the number of
5 points allocated under subsection (c) of section 203 of the
6 Immigration and Nationality Act (8 U.S.C. 1153), as
7 amended by subsection (a).

8 (c) **CONFORMING AMENDMENT.**—Section 203(d) of
9 the Immigration and Nationality Act (8 U.S.C. 1153(d)),
10 as amended by section 213(a)(2)(B) of this Act, is further
11 amended by striking “(a) or (b)” and inserting “(a), (b),
12 or (c)”.

13 (d) **EFFECTIVE DATE.**—The amendments made by
14 this section shall take effect on the first day of the first
15 fiscal year beginning after the date of the enactment of
16 this Act.

17 **SEC. 2302. MERIT-BASED TRACK TWO.**

18 (a) **IN GENERAL.**—In addition to any immigrant visa
19 made available under the Immigration and Nationality Act
20 (8 U.S.C. 1101 et seq.), as amended by this Act, the Sec-
21 retary of State shall allocate merit-based immigrant visas
22 as described in this section.

23 (b) **STATUS.**—An alien admitted on the basis of a
24 merit-based immigrant visa under this section shall have
25 the status of an alien lawfully admitted for permanent res-

1 idence (as that term is defined in section 101(a)(20) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1101(a)(20)).

4 (c) ELIGIBILITY.—Beginning on October 1, 2014, the
5 following aliens shall be eligible for merit-based immigrant
6 visas under this section:

7 (1) EMPLOYMENT-BASED IMMIGRANTS.—An
8 alien who is the beneficiary of a petition filed before
9 the date of the enactment of this Act to accord sta-
10 tus under section 203(b) of the Immigration and
11 Nationality Act, if the visa has not been issued with-
12 in 5 years after the date on which such petition was
13 filed.

14 (2) FAMILY-BASED IMMIGRANTS.—Subject to
15 subsection (d), an alien who is the beneficiary of a
16 petition filed to accord status under section 203(a)
17 of the Immigration and Nationality Act—

18 (A) prior to the date of the enactment of
19 this Act, if the visa was not issued within 5
20 years after the date on which such petition was
21 filed; or

22 (B) after such date of enactment, to ac-
23 cord status under paragraph (3) or (4) of sec-
24 tion 203(a) of the Immigration and Nationality
25 Act (8 U.S.C. 1153 (a)), as in effect the day

1 before the effective date specified in section
2 217(a)(3) of this Act, and the visa was not
3 issued within 5 years after the date on which
4 petition was filed.

5 ~~(3) LONG-TERM ALIEN WORKERS AND OTHER~~
6 ~~MERIT-BASED IMMIGRANTS.—An alien who—~~

7 (A) is not admitted pursuant to subpara-
8 graph (W) of section 101(a)(15) of the Immi-
9 gration and Nationality Act (8 U.S.C.
10 1101(a)(15)); and

11 (B) has been lawfully present in the
12 United States for not less than 10 years; and

13 ~~(d) ALLOCATION OF EMPLOYMENT-SPONSORED~~
14 ~~MERIT-BASED IMMIGRANT VISAS.—In each of the fiscal~~
15 ~~years 2015 through and including 2021, the Secretary of~~
16 ~~State shall allocate to aliens described in subsection (c)(1)~~
17 ~~a number of merit-based immigrant visas equal to $\frac{1}{7}$ of~~
18 ~~the number of aliens described in subsection (c)(1) whose~~
19 ~~visas had not been issued as of the date of the enactment~~
20 ~~of this Act.~~

21 ~~(e) ALLOCATION OF FAMILY-SPONSORED MERIT-~~
22 ~~BASED IMMIGRANT VISAS.—The visas authorized by sub-~~
23 ~~section (c)(2) shall be allocated as follows:~~

24 (1) ~~SPOUSES AND CHILDREN OF PERMANENT~~
25 ~~RESIDENTS.—Petitions to accord status under sec-~~

1 tion ~~203(a)(2)(A)~~ of the Immigration and Nation-
2 ality Act (~~8 U.S.C. 1153(a)(2)(A)~~) of the Immigra-
3 tion and Nationality Act, as in effect the day before
4 the effective date specified in section ~~217(a)(3)~~ of
5 this Act, are automatically converted to petitions to
6 accord status to the same beneficiaries as immediate
7 relatives under section ~~201(b)(2)(A)~~ of the Immigra-
8 tion and Nationality Act (~~8 U.S.C. 1151(b)(2)(A)~~).

9 ~~(2) OTHER FAMILY MEMBERS.~~—In each of the
10 fiscal years ~~2015~~ through and including ~~2021~~, the
11 Secretary of State shall allocate to the aliens de-
12 scribed in subsection ~~(c)(2)(A)~~, other than those
13 aliens described in paragraph ~~(1)~~, a number of tran-
14 sitional merit-based immigrant visas equal to $\frac{1}{7}$ of
15 the difference between—

16 ~~(A)~~ the number of aliens described in sub-
17 section ~~(c)(2)(A)~~ whose visas had not been
18 issued as of the date of the enactment of this
19 Act; and

20 ~~(B)~~ the number of aliens described in
21 paragraph ~~(1)~~.

22 ~~(3) ORDER OF ISSUANCE FOR PREVIOUSLY~~
23 ~~FILED APPLICATIONS.~~—Subject to paragraphs ~~(1)~~
24 and ~~(2)~~, the visas authorized by subsection ~~(c)(2)(A)~~
25 shall be issued in the order in which the petitions to

1 accord status under section 203(a) of the Immigra-
2 tion and Nationality Act were filed (8 U.S.C.
3 1153(a)).

4 (4) SUBSEQUENTLY FILED APPLICATIONS.—In
5 fiscal year 2022, the Secretary of State shall allocate
6 to the aliens described in subsection (e)(2)(B), the
7 number of merit-based immigrant visas equal to ½
8 of the number of aliens described in subsection
9 (e)(2)(B) whose visas had not been issued by Octo-
10 ber 1, 2021. In fiscal year 2023, the Secretary of
11 State shall allocate to the aliens described in sub-
12 section (e)(2)(B), the number of merit-based immi-
13 grant visas equal to the number of aliens described
14 in subsection (e)(2)(B) whose visas had not been
15 issued by October 1, 2022.

16 (5) ORDER OF ISSUANCE FOR SUBSEQUENTLY
17 FILED APPLICATIONS.—Subject to paragraph (4),
18 the visas authorized by subsection (e)(2)(B) shall be
19 issued in the order in which the petitions to accord
20 status under section 203(a) of the Immigration and
21 Nationality Act were filed, as in effect the day be-
22 fore the effective date specified in section 217(a)(3)
23 of this Act.

24 (f) ELIGIBILITY IN YEARS AFTER 2028.—Beginning
25 in fiscal year 2029, aliens eligible for adjustment of status

1 under paragraph (c)(3) of this section must be lawfully
2 present in an employment authorized status for 20 years
3 prior to filing an application for adjustment of status.

4 (g) REGISTERED PROVISIONAL IMMIGRANTS.—An
5 alien granted registered provisional status under section
6 201 of this Act is not eligible to receive a merit-based im-
7 migrant visa under section 201(e) of the Immigration and
8 Nationality Act, as amended by section 2301, until 10
9 years after the date of the enactment of this Act.

10 **SEC. 2303. REPEAL OF THE DIVERSITY VISA PROGRAM.**

11 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)
12 is amended—

13 (1) in section 201 (8 U.S.C. 1151)—

14 (A) in subsection (a)—

15 (i) in paragraph (1), by adding “and”
16 at the end;

17 (ii) in paragraph (2), by striking “;
18 and” at the end and inserting a period;

19 and

20 (iii) by striking paragraph (3); and

21 (B) by striking subsection (e);

22 (2) in section 203 (8 U.S.C. 1153)—

23 (A) by striking subsection (e);

24 (B) in subsection (d), by striking “(a), (b),
25 or (c)” and inserting “(a) or (b)

1 (C) in subsection (c)—
2 (i) by striking paragraph (2); and
3 (ii) by redesignating paragraph (3) as
4 paragraph (2);

5 (D) in subsection (f), by striking “(a), (b),
6 or (c) of this section” and inserting “(a) or
7 (b)”; and

8 (E) in subsection (g), by striking “(a), (b),
9 and (c)” and inserting “(a) and (b)”; and
10 (3) in section 204 (8 U.S.C. 1154)—

11 (A) in subsection (a)(1), by striking sub-
12 paragraph (I); and

13 (B) in subsection (c), 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. WORLD-WIDE 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 “(i) 480,000 minus the number com-
2 puted under paragraph (2); and

3 “(ii) the number computed under
4 paragraph (3).

5 “(B) FISCAL YEAR 2015.—Subject to sub-
6 paragraph (C), for fiscal year 2015, the world-
7 wide level of family-based immigrants under
8 this subsection for a fiscal year after fiscal year
9 2015 is equal to the sum of—

10 “(i) 480,000 minus the number com-
11 puted under paragraph (2);

12 “(ii) the number computed under
13 paragraph (3); and

14 “(iii) the number computed under
15 paragraph (4).

16 “(C) LIMITATION.—The number computed
17 under subparagraph (A)(i) or (B)(i) may not be
18 less than 226,000. The number computed under
19 subparagraph (A)(i) or (B)(i) may not be less
20 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 (e) EFFECTIVE DATE.—The amendments made by
24 this Act shall take effect on the first day of the first fiscal
25 year beginning after the date of the enactment of this Act.

1 **SEC. 2305. RECLASSIFICATION OF SPOUSES AND MINOR**
2 **CHILDREN OF LAWFUL PERMANENT RESI-**
3 **DENTS AS IMMEDIATE RELATIVES.**

4 (a) IMMEDIATE RELATIVES.—Section 201(b)(2) (8
5 U.S.C. 1151(b)(2)) is amended to read as follows:

6 “(2)(A) Aliens who are immediate relatives:

7 “(B) In this paragraph, the term ‘immediate
8 relative’ means—

9 “(i) a child, spouse, or parent of a citizen
10 of the United States, except that in the case of
11 such a parent such citizen shall be at least 21
12 years of age;

13 “(ii) a child or spouse of an alien lawfully
14 admitted for permanent residence;

15 “(iii) the child or spouse of an alien de-
16 scribed in clause (i), who is accompanying or
17 following to join the alien;

18 “(iv) the child or spouse of an alien de-
19 scribed in clause (ii), who is accompanying or
20 following to join the alien;

21 “(v) an alien admitted under section
22 211(a) on the basis of a prior issuance of a visa
23 to the alien’s accompanying parent who is an
24 immediate relative; and

1 “(vi) an alien born to an alien lawfully ad-
2 mitted for permanent residence during a tem-
3 porary visit abroad.

4 “(C) If an alien who was the spouse or child of
5 a citizen of the United States or of an alien lawfully
6 admitted for permanent residence and was not le-
7 gally separated from the citizen or lawful permanent
8 resident at the time of the citizen’s or lawful perma-
9 nent resident’s death files a petition under section
10 204(a)(1)(A)(ii) not later than 2 years after the date
11 of the citizen’s or permanent resident’s death, the
12 alien spouse (and each child of the alien) shall re-
13 main, for purposes of this paragraph, an immediate
14 relative during the period beginning on the date of
15 the citizen’s or permanent resident’s death and end-
16 ing on the date on which the alien spouse remarries.

17 “(D) An alien who has filed a petition under
18 clause (iii) or (iv) of section 204(a)(1)(A) shall re-
19 main, for purposes of this paragraph, an immediate
20 relative if the United States citizen or lawful perma-
21 nent resident spouse or parent loses United States
22 citizenship on account of the abuse.”.

23 (b) ALLOCATION OF IMMIGRANT VISAS.—Section
24 203(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 the alien establishes within 2
24 years following the date of notification of the avail-

1 ability of such visa demonstrates that such failure to
2 apply 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 (A))”.

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 (A))”.

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 (8 U.S.C. 1152) is~~
3 ~~amended—~~

4 (A) in subsection (a)(4)—

5 (i) by striking subparagraphs (A) and
6 (B);

7 (ii) by redesignating subparagraphs
8 (C) and (D) as subparagraphs (A) and
9 (B), respectively; and

10 (iii) in subparagraph (A), as redesi-
11 gnated by clause (ii), by striking “section
12 203(a)(2)(B)” and inserting “section
13 203(a)(2)”; and

14 (B) in subsection (e), in the flush matter
15 following paragraph (3), by striking “, or as
16 limiting the number of visas that may be issued
17 under section 203(a)(2)(A) pursuant to sub-
18 section (a)(4)(A)”.

19 (5) ~~ALLOCATION OF IMMIGRANT VISAS.—Sec-~~
20 ~~tion 203(h) (8 U.S.C. 1153(h)) is amended—~~

21 (A) in paragraph (1)—

22 (i) in the matter preceding subpara-
23 graph (A), by striking “subsections
24 (a)(2)(A) and (d)” and inserting “sub-
25 section (d)”;

1 (ii) in subparagraph (A), by striking
2 “becomes available for such alien (or, in
3 the case of subsection (d), the date on
4 which an immigrant visa number became
5 available for the alien’s parent),” and in-
6 serting “became available for the alien’s
7 parent,”; and

8 (iii) in subparagraph (B), by striking
9 “applicable”;

10 (B) by amending paragraph (2) to read as
11 follows:

12 “(2) PETITIONS DESCRIBED.—The petition de-
13 scribed in this paragraph is a petition filed under
14 section 204 for classification of the alien’s parent
15 under subsection (a), (b), or (c).”; and

16 (C) by amending paragraph (3) to read as
17 follows:

18 “(3) RETENTION OF PRIORITY DATE.—

19 “(A) PETITIONS FILED FOR CHILDREN.—

20 For a petition originally filed to classify a child
21 under subsection (d), if the age of the alien is
22 determined under paragraph (1) to be 21 years
23 of age or older on the date that a visa number
24 becomes available to the alien’s parent who was
25 the principal beneficiary of the petition, then,

1 upon the parent's admission to lawful perma-
2 nent residence in the United States, the petition
3 shall automatically be converted to a petition
4 filed by the parent for classification of the alien
5 under subsection (a)(2) and the petition shall
6 retain the priority date established by the origi-
7 nal petition.

8 “(B) FAMILY AND EMPLOYMENT-BASED
9 PETITIONS.—The priority date for any family-
10 or employment-based petition shall be the date
11 of filing of the petition with the Secretary of
12 Homeland Security (or the Secretary of State,
13 if applicable); unless the filing of the petition
14 was preceded by the filing of a labor certifi-
15 cation with the Secretary of Labor, in which
16 case that date shall constitute the priority date.
17 The beneficiary of any petition shall retain his
18 or her earliest priority date based on any peti-
19 tion filed on his or her behalf that was approv-
20 able when filed, regardless of the category of
21 subsequent petitions.”

22 (6) PROCEDURE FOR GRANTING IMMIGRANT
23 STATUS.—Section 204 (8 U.S.C. 1154) is amend-
24 ed—

25 (A) in subsection (a)(1)—

1 (i) in subparagraph (A)—

2 (I) in clause (i), by inserting “or
3 alien lawfully admitted for permanent
4 residence” after “citizen of the United
5 States”;

6 (II) in clause (ii), by striking
7 “described in the second sentence of
8 section 201(b)(2)(A)(i) also” and in-
9 serting “or alien child described in
10 section 201(b)(2)(C)”;

11 (III) in clause (iii)—

12 (aa) in subclause (I)(aa), by
13 striking “United States citizen”
14 and inserting “citizen of the
15 United States or lawful perma-
16 nent resident”; and

17 (bb) in subclause (II)(aa)—

18 (AA) in subitem (AA),
19 by striking the semicolon at
20 the end and inserting “or
21 lawful permanent resident”;

22 (BB) in subitem
23 (BB)—

24 (cc) by inserting “or
25 lawful permanent resident”

1 after “a citizen of the
2 United States”; and

3 (dd) by striking
4 “States;” and inserting
5 “States or lawful permanent
6 resident;”; and

7 (CC) by amending subitem (CC) to read as follows:

8 “(CC) who was a bona fide spouse of a citizen
9 of the United States or a lawful permanent resident
10 within the past 2 years and—

11 “(aaa) whose spouse died within the past
12 2 years;

13 “(bbb) whose spouse renounced citizenship
14 status or renounced or lost status as a lawful
15 permanent resident within the past 2 years re-
16 lated to an incident of domestic violence; or

17 “(ccc) who demonstrates a connection be-
18 tween the legal termination of the marriage
19 within the past 2 years and battering or ex-
20 treme cruelty by the spouse who is a citizen of
21 the United States or a lawful permanent resi-
22 dent spouse;”;

23 (IV) in clause (iv), by inserting
24 “or lawful permanent resident” after

1 “citizen” each place that term ap-
2 pears;

3 (V) in clause (v)(I), by inserting
4 “or lawful permanent resident” after
5 “citizen”; and

6 (VI) in clause (vi)—

7 (aa) by striking “citizen-
8 ship,” and inserting “citizenship
9 or lawful permanent resident sta-
10 tus,”; and

11 (bb) by inserting “or lawful
12 permanent resident” after “abus-
13 er’s citizenship”;

14 (ii) by striking subparagraph (B);

15 (iii) in subparagraph (C), by striking
16 “subparagraph (A)(iii), (A)(iv), (B)(ii), or
17 (B)(iii)” and inserting “clause (iii) or (iv)
18 of subparagraph (A)”;

19 (iv) in subparagraph (J), by striking
20 “or clause (ii) or (iii) of subparagraph
21 (B)”;

22 (B) in subsection (a), by striking para-
23 graph (2);

24 (C) in subsection (e)(1), by striking “or
25 preference status”; and

1 (D) in subsection (h), by striking “or a pe-
2 tition filed under subsection (a)(1)(B)(ii)”.

3 (7) EXCLUDABLE ALIENS.—Section
4 212(d)(12)(B) (8 U.S.C. 1182(d)(12)(B)) is amend-
5 ed by striking “section 201(b)(2)(A)” and inserting
6 “section 201(b)(2) (other than subparagraph
7 (A)(vi))”.

8 (8) ADMISSION OF NONIMMIGRANTS.—Section
9 214(r)(3)(A) (8 U.S.C. 1184(r)(3)(A)) is amended
10 by striking “section 201(b)(2)(A)(i).” and inserting
11 “section 201(b)(2) (other than clause (v) or (vi) of
12 subparagraph (A)).”.

13 (9) REFUGEE CRISIS IN IRAQ ACT OF 2007.—
14 Section 1243(a)(4) of the Refugee Crisis in Iraq Act
15 of 2007 (8 U.S.C. 1157 note) is amended by strik-
16 ing “section 201(b)(2)(A)(i)” and inserting “section
17 201(b)(2) (other than clause (v) or (vi) of subpara-
18 graph (A))”.

19 (10) PROCESSING OF VISA APPLICATIONS.—
20 Section 233 of the Department of State Authoriza-
21 tion Act, Fiscal Year 2003 (8 U.S.C. 1201 note) is
22 amended by striking “section 201(b)(2)(A)(i)” and
23 inserting “section 201(b)(2) (other than clause (v)
24 or (vi) of subparagraph (A))”.

1 (11) ADJUSTMENT OF STATUS.—Section 245(a)
2 (8 U.S.C. 1255(a)) is amended to read as follows:

3 “(a)(1) The status of an alien who was inspected and
4 admitted or paroled into the United States or the status
5 of any other alien having an approved petition for classi-
6 fication as a VAWA self-petitioner may be adjusted by the
7 Attorney General or the Secretary of Homeland Security,
8 in the Attorney General’s or the Secretary’s discretion and
9 under such regulations as the Attorney General or Sec-
10 retary may prescribe, to that of an alien lawfully admitted
11 for permanent residence (regardless of whether the alien
12 has already been admitted for permanent residence) if—

13 “(A) the alien makes an application for such
14 adjustment;

15 “(B) the alien is eligible to receive an immi-
16 grant visa and is admissible to the United States for
17 permanent residence; and

18 “(C) subject to paragraph (2), an immigrant
19 visa is immediately available to the alien at the time
20 the alien’s application is filed.

21 “(2)(A) An application that is based on a petition ap-
22 proved or approvable under subparagraph (A) or (B) of
23 section 204(a)(1) may be filed without regard to the limi-
24 tation set forth in paragraph (1)(C).

1 “(B) An application for adjustment filed for an alien
2 under this paragraph may not be approved until such time
3 as an immigrant visa becomes available for the alien.”.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

7 **SEC. 2306. NUMERICAL LIMITATIONS ON INDIVIDUAL FOR-**
8 **EIGN STATES.**

9 (a) NUMERICAL LIMITATION TO ANY SINGLE FOR-
10 EIGN STATE.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is
11 amended—

12 (1) in the paragraph heading, by striking
13 “AND EMPLOYMENT-BASED”;

14 (2) by striking “(3), (4), and (5),” and insert-
15 ing “(3) and (4),”;

16 (3) by striking “subsections (a) and (b) of sec-
17 tion 203” and inserting “section 203(a),”;

18 (4) by striking “7” and inserting “15”; and

19 (5) by striking “such subsections” and inserting
20 “such section”.

21 (b) CONFORMING AMENDMENTS.—Section 202 (8
22 U.S.C. 1152) is amended—

23 (1) in subsection (a)—

1 (A) in paragraph (3), by striking “both
2 subsections (a) and (b) of section 203” and in-
3 serting “section 203(a)”; and

4 (B) by striking paragraph (5); and
5 (2) by amending subsection (e) to read as fol-
6 lows:

7 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
8 If it is determined that the total number of immigrant
9 visas made available under section 203(a) to natives of
10 any single foreign state or dependent area will exceed the
11 numerical limitation specified in subsection (a)(2) in any
12 fiscal year, in determining the allotment of immigrant visa
13 numbers to natives under section 203(a), visa numbers
14 with respect to natives of that state or area shall be allo-
15 cated (to the extent practicable and otherwise consistent
16 with this section and section 203) in a manner so that,
17 except as provided in subsection (a)(4), the proportion of
18 the visa numbers made available under each of paragraphs
19 (1) through (4) of section 203(a) is equal to the ratio of
20 the total number of visas made available under the respec-
21 tive paragraph to the total number of visas made available
22 under section 203(a).”.

23 (e) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
24 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
25 note) is amended—

1 (1) in subsection (a), by striking “subsection
2 (e)” and inserting “subsection (d)”; and

3 (2) by striking subsection (d) and redesignating
4 subsection (e) as subsection (d).

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall take effect 1 year after the date of the
7 enactment of this Act.

8 **SEC. 2307. ALLOCATION OF IMMIGRANT VISAS.**

9 (a) **PREFERENCE ALLOCATION FOR FAMILY-BASED**
10 **IMMIGRANTS.**—

11 (1) **IN GENERAL.**—Section 203(a) (8 U.S.C.
12 1153(a)) is amended to read as follows:

13 “(a) **PREFERENCE ALLOCATION FOR FAMILY-BASED**
14 **IMMIGRANTS.**—Aliens subject to the worldwide level speci-
15 fied in section 201(e) for family-based immigrants shall
16 be allotted visas as follows:

17 “(1) **SONS AND DAUGHTERS OF CITIZENS.**—
18 Qualified immigrants who are—

19 “(A) the unmarried sons or unmarried
20 daughters but not the children of citizens of the
21 United States shall be allocated visas in a num-
22 ber not to exceed 35 percent of the worldwide
23 level authorized in section 201(e), plus the sum
24 of—

1 “(i) the number of visas not required
2 for the class specified in paragraph (2) for
3 the current fiscal year; and

4 “(ii) the number of visas not required
5 for the class specified in subparagraph (B);
6 or

7 “(B) the married sons or married daugh-
8 ters of citizens of the United States who are
9 under 31 years of age at the time of filing a pe-
10 tition under section 204 shall be allocated visas
11 in a number not to exceed 25 percent of the
12 worldwide level authorized in section 201(e);
13 plus the number of any visas not required for
14 the class specified in subparagraph (A) current
15 fiscal year.

16 “(2) SONS AND DAUGHTERS OF RESIDENTS.—
17 Qualified immigrants who are the unmarried sons or
18 unmarried daughters of aliens admitted for perma-
19 nent residence shall be allocated visas in a number
20 not to exceed 40 percent of the worldwide level au-
21 thorized in section 201(e); plus any visas not re-
22 quired for the class specified in paragraph (1)(A).”.

23 (2) CONFORMING AMENDMENTS.—

1 (A) PROCEDURE FOR GRANTING IMMI-
2 GRANT STATUS.—Section 204 (8 U.S.C. 1154)
3 is amended—

4 (i) in subsection (a)(1)(A)(i), by strik-
5 ing “(1), (3), or (4) of section 203(a)” and
6 inserting “subparagraph (A) or (B) of sec-
7 tion 203(a)(1)”; and

8 (ii) in subsection (f)(1), by striking
9 “section 201(b), 203(a)(1), or 203(a)(3),”
10 and inserting “section 201(b) or subpara-
11 graph (A) or (B) of section 203(a)(1)”.

12 (B) AUTOMATIC CONVERSION.—For the
13 purposes of any petition pending or approved
14 based on a relationship described—

15 (i) in subparagraph (A) of section
16 203(a)(1) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1153(a)(1)), as amend-
18 ed by paragraph (1), and notwithstanding
19 the age of the alien, such a petition shall
20 be deemed reclassified as a petition based
21 on a relationship described in subpara-
22 graph (B) of such section 203(a)(1) upon
23 the marriage of such alien; or

24 (ii) in subparagraph (B) of such sec-
25 tion 203(a)(1), such a petition shall be

1 deemed reclassified as a petition based on
2 a relationship described in subparagraph
3 (A) of such section 203(a)(1) upon the
4 legal termination of marriage or death of
5 such alien's spouse.

6 ~~(3) EFFECTIVE DATE.~~—The amendments made
7 by this subsection shall take effect on the first day
8 of the first fiscal year that begins at least 18 months
9 following the date of the enactment of this Act.

10 ~~(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-~~
11 ~~BASED IMMIGRANTS.~~—Section 201(b)(1) (8 U.S.C.
12 ~~1151(b)(1))~~ is amended by adding at the end the fol-
13 ~~lowing:~~

14 “(F) Derivative beneficiaries as described
15 in section 203(d) of employment-based immi-
16 grants under section 203(b).

17 “(G) Aliens with extraordinary ability in
18 the sciences, arts, education, business, or ath-
19 letics which has been demonstrated by sus-
20 tained national or international acclaim, if, with
21 respect to any such alien—

22 “(i) the achievements of such alien
23 have been recognized in the field through
24 extensive documentation;

1 “(ii) such alien seeks to enter the
2 United States to continue work in the area
3 of extraordinary ability; and

4 “(iii) the entry of such alien into the
5 United States will substantially benefit
6 prospectively the United States.

7 “(H) Aliens who are outstanding profes-
8 sors and researchers if, with respect to any
9 such alien—

10 “(i) the alien is recognized inter-
11 nationally as outstanding in a specific aca-
12 demic area;

13 “(ii) the alien has at least 3 years of
14 experience in teaching or research in the
15 academic area; and

16 “(iii) the alien seeks to enter the
17 United States—

18 “(I) to be employed in for a
19 tenured position (or tenure-track posi-
20 tion) within a not for profit university
21 or institution of higher education to
22 teach in the academic area;

23 “(II) for employment in a com-
24 parable position with a not for profit
25 university or institution of higher edu-

1 eation ; or a governmental research
2 organization, to conduct research in
3 the area; or

4 “(III) for employment in a com-
5 parable position to conduct research
6 in the area with a department, divi-
7 sion, or institute of a private em-
8 ployer, if the department, division, or
9 institute employs at least 3 persons
10 full-time in research activities and has
11 achieved documented accomplishments
12 in an academic field.

13 “(I) Aliens who are multinational execu-
14 tives and managers if, with respect to any such
15 alien—

16 “(i) in the 3 years preceding the time
17 of the alien’s application for classification
18 and admission into the United States
19 under this subparagraph, the alien has
20 been employed for at least 1 year by a firm
21 or corporation or other legal entity or an
22 affiliate or subsidiary thereof; and

23 “(ii) the alien seeks to enter the
24 United States in order to continue to
25 render services to the same employer or to

1 a subsidiary or affiliate thereof in a capac-
2 ity that is managerial or executive.

3 ~~“(J) Aliens who have earned a doctorate~~
4 ~~degree.~~

5 ~~“(K) Alien physicians who have completed~~
6 ~~the foreign residency requirements under sec-~~
7 ~~tion 212(e) or obtained a waiver of these re-~~
8 ~~quirements or an exemption requested by an in-~~
9 ~~terested State agency or by an interested Fed-~~
10 ~~eral agency under section 214(l), including~~
11 ~~those alien physicians who completed such serv-~~
12 ~~ice before the date of the enactment of the Bor-~~
13 ~~der Security, Economic Opportunity, and Immi-~~
14 ~~gration Modernization Act.”.~~

15 ~~(c) TECHNICAL AND CONFORMING AMENDMENTS.—~~

16 ~~(1) PROCEDURE FOR GRANTING IMMIGRANT~~
17 ~~STATUS.—Section 204(a)(1)(E) (8 U.S.C.~~
18 ~~1154(a)(1)(E)) is amended by striking “under sec-~~
19 ~~tion 203(b)(1)(A)” and inserting “under subpara-~~
20 ~~graph (G), (H), (I), (J) or (K) of section 201(b)(1),~~
21 ~~or section”.~~

22 ~~(2) 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 (G),
4 (H), (I), (j), or (K) 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 subsection.”.

9 ~~(3) 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 be admitted to the United States
21 without respect to the worldwide level specified
22 in section 201(d)”;

23 (C) by amending (2) to read as follows:

1 “(2) ALIENS WHO ARE MEMBERS OF THE PRO-
2 FESSIONS HOLDING ADVANCED DEGREES OR AD-
3 VANCED DEGREES IN A STEM FIELD.—

4 “(A) PROFESSIONS HOLDING ADVANCED
5 DEGREES.—Visas shall be made available, in a
6 number not to exceed 40 percent of the world-
7 wide level authorized in section 201(d), plus
8 any visas not required for the classes specified
9 in paragraph (5), to qualified immigrants who
10 are members of the professions holding ad-
11 vanced degrees or their equivalent whose serv-
12 ices in the sciences, arts, professions, or busi-
13 ness are sought by an employer in the United
14 States, including alien physicians holding for-
15 eign medical degrees that have been deemed
16 sufficient for acceptance by an accredited
17 United States medical residency or fellowship
18 program.

19 “(B) ADVANCED DEGREES IN A STEM
20 FIELD.—

21 “(i) IN GENERAL.—A qualified immi-
22 grant shall be admitted to the United
23 States without respect to the worldwide
24 level specified in section 201(d) if such im-
25 migrant—

1 “(I) has earned a graduate de-
2 gree at the level of master’s or higher
3 in a field of science, technology, engi-
4 neering, or mathematics from an ac-
5 credited United States institution of
6 higher education

7 “(II) has an offer of employment
8 from a United States employer in a
9 field related to such degree; and

10 “(III) earned the qualifying grad-
11 uate degree within the 5 years imme-
12 diately prior to the initial filing date
13 of the petition under which the non-
14 immigrant is a beneficiary.

15 “(ii) UNITED STATES DOCTORAL IN-
16 STITUTION OF HIGHER EDUCATION.—In
17 this subparagraph, the term ‘United States
18 doctoral institution of higher education’
19 means an institution that—

20 “(I) is described in section
21 101(a) of the Higher Education Act
22 of 1965 (20 U.S.C. 1001(a)) or is a
23 proprietary institution of higher edu-
24 cation (as defined in section 102(b) of
25 such Act (20 U.S.C. 1002(b)));

1 waive the requirements of subparagraph
2 (A) that an alien's services in the sciences,
3 arts, professions, or business be sought by
4 an employer in the United States.

5 “(ii) PHYSICIANS WORKING IN SHORT-
6 AGE AREAS OR VETERANS FACILITIES.—

7 “(I) IN GENERAL.—The Sec-
8 retary shall grant a national interest
9 waiver pursuant to clause (i) on be-
10 half of any alien physician with re-
11 spect to whom a petition for pref-
12 erence classification has been filed
13 under subparagraph (A) if—

14 “(aa) the alien physician
15 agrees to work full time as a phy-
16 sician practicing primary care,
17 specialty medicine, or a combina-
18 tion thereof, in an area or areas
19 designated by the Secretary of
20 Health and Human Services as
21 having a shortage of health care
22 professionals or at a health care
23 facility under the jurisdiction of
24 the Secretary of Veterans Affairs;
25 or

1 “(bb) the alien physician is
2 pursuing such waiver based upon
3 service at a facility or facilities
4 that serve patients who reside in
5 a geographic area or areas des-
6 ignated by the Secretary of
7 Health and Human Services as
8 having a shortage of health care
9 professionals (without regard to
10 whether such facility or facilities
11 are located within such an area)
12 and a Federal agency or a local,
13 county, regional, or State depart-
14 ment of public health determines
15 that the alien physician’s work at
16 such facility was or will be in the
17 public interest.

18 “(II) PROHIBITION.—

19 “(aa) No permanent resi-
20 dent visa may be issued to an
21 alien physician described in sub-
22 clause (I) by the Secretary of
23 State under section 204(b), and
24 the Secretary of Homeland Secu-
25 rity may not adjust the status of

1 such an alien physician from that
2 of a nonimmigrant alien to that
3 of a permanent resident alien
4 under section 245, until such
5 time as the alien has worked full
6 time as a physician for an aggregate
7 of 5 years (not including the
8 time served in the status of an
9 alien described in section
10 101(a)(15)(J)), in an area or
11 areas designated by the Secretary
12 of Health and Human Services
13 as having a shortage of health
14 care professionals or at a health
15 care facility under the jurisdiction
16 of the Secretary of Veterans
17 Affairs; or at a facility or facilities
18 meeting the requirements of
19 subclause (I)(bb).

20 “(bb) The 5-year service re-
21 quirement of item (aa) shall be
22 counted from the date the alien
23 physician begins work in the
24 shortage area in any legal status
25 and not the date an immigrant

1 visa petition is filed or approved.
2 Such service shall be aggregated
3 without regard to when such
4 service began and without regard
5 to whether such service began
6 during or in conjunction with a
7 course of graduate medical edu-
8 cation.

9 “(cc) An alien physician
10 shall not be required to submit
11 an employment contract with a
12 term exceeding the balance of the
13 5-year commitment yet to be
14 served; nor an employment con-
15 tract dated within a minimum
16 time period prior to filing of a
17 visa petition pursuant to this
18 subsection.

19 “(dd) An alien physician
20 shall not be required to file addi-
21 tional immigrant visa petitions
22 upon a change of work location
23 from the location approved in the
24 original national interest immi-
25 grant petition.

1 of aliens under subparagraph (A) shall not
2 apply to an immigrant seeking admission
3 or adjustment of status under paragraph
4 (2)(A)(ii) of section 203(b).”.

5 (5) SKILLED WORKERS, PROFESSIONALS, AND
6 OTHER WORKERS.—

7 (A) IN GENERAL.—Section 203(b)(3)(A)
8 (8 U.S.C. 1153(b)(3)(A)) is amended by strik-
9 ing “in a number not to exceed 28.6 percent of
10 such worldwide level; plus any visas not re-
11 quired for the classes specified in paragraphs
12 (1) and (2),” and inserting “ in a number not
13 to exceed 40 percent of the worldwide level au-
14 thorized in section 201(d), plus any visas not
15 required for the class specified in paragraph
16 (2),”.

17 (B) MEDICAL LICENSE REQUIREMENTS.—
18 Section 214(i)(2)(A) (8 U.S.C. 1184(i)(2)(A))
19 is amended by adding at the end “including in
20 the case of a medical doctor, the licensure re-
21 quired to practice medicine in the United
22 States,”.

23 (C) REPEAL OF LIMITATION ON OTHER
24 WORKERS.—Section 203(b)(3) (8 U.S.C.
25 1153(b)(3)) is amended—

1 (i) by striking subparagraph (B); and
2 (ii) redesignated subparagraph (C) as
3 subparagraph (B).

4 (6) CERTAIN SPECIAL IMMIGRANTS.—Section
5 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by
6 striking “in a number not to exceed 7.1 percent of
7 such worldwide level,” and inserting “in a number
8 not to exceed 10 percent of the worldwide level au-
9 thorized in section 201(d), plus any visas not re-
10 quired for the class specified in paragraph (3),”.

11 (7) EMPLOYMENT CREATION.—Section
12 203(b)(5)(A) (8 U.S.C. 1153(b)(5)(A)) is amended
13 by striking “in a number not to exceed 7.1 percent
14 of such worldwide level,” and inserting “in a num-
15 ber not to exceed 10 percent of the worldwide level
16 authorized in section 201(d), plus any visas not re-
17 quired for the class specified in paragraph (4),”.

18 **SEC. 2308. V NONIMMIGRANT VISAS.**

19 (a) NONIMMIGRANT ELIGIBILITY.—Subparagraph
20 (V) of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is
21 amended to read as follows:

22 “(V)(i) subject to section 214(q)(1) and
23 section 212(a)(4), an alien who is the bene-
24 ficiary of an approved petition under section
25 203(a) as—

1 “~~(I)~~ the unmarried son or unmarried
2 daughter of a citizen of the United States;

3 “~~(II)~~ the unmarried son or unmarried
4 daughter of an alien lawfully admitted for
5 permanent residence; or

6 “~~(III)~~ the married son or married
7 daughter of a citizen of the United States
8 and who is under 31 years of age; or

9 “~~(ii)~~ subject to section 214(q)(2), an alien
10 who is—

11 “~~(I)~~ the sibling of a citizen of the
12 United States; or

13 “~~(II)~~ the married son or married
14 daughter of a citizen of the United States
15 and who is over 31 years of age.”.

16 (b) EMPLOYMENT AND PERIOD OF ADMISSION OF
17 NONIMMIGRANTS DESCRIBED IN SECTION
18 101(A)(15)(V).—Section 214(q) (8 U.S.C. 1184(q)) is
19 amended to read as follows:

20 “~~(q)~~ NONIMMIGRANTS DESCRIBED IN SECTION
21 101(A)(15)(V).—

22 “~~(1)~~ CERTAIN SONS AND DAUGHTERS.—

23 “~~(A)~~ EMPLOYMENT AUTHORIZATION.—The
24 Secretary shall—

1 “(i) authorize a nonimmigrant admit-
2 ted pursuant to section 101(a)(15)(V)(i) to
3 engage in employment in the United States
4 during the period of such nonimmigrant’s
5 authorized admission; and

6 “(ii) provide such a nonimmigrant
7 with an ‘employment authorized’ endorse-
8 ment or other appropriate document signi-
9 fying authorization of employment.

10 “(B) TERMINATION OF ADMISSION.—The
11 period of authorized admission for such a non-
12 immigrant shall terminate 30 days after the
13 date on which—

14 “(i) such nonimmigrant’s application
15 for an immigrant visa pursuant to the ap-
16 proval of a petition under subsection (a) or
17 (e) of section 203 is denied; or

18 “(ii) such nonimmigrant’s application
19 for adjustment of status under section 245
20 pursuant to the approval of such a petition
21 is denied.

22 “(2) SIBLINGS AND SONS AND DAUGHTERS OF
23 CITIZENS.—

24 “(A) EMPLOYMENT AUTHORIZATION.—The
25 Secretary may not authorize a nonimmigrant

1 admitted pursuant to section 101(a)(15)(V)(ii)
2 to engage in employment in the United States.

3 “(B) PERIOD OF ADMISSION.—The period
4 of authorized admission as such a non-
5 immigrant may not exceed 60 days per fiscal
6 year.

7 “(C) TREATMENT OF PERIOD OF ADMIS-
8 SION.—An alien admitted under section
9 101(a)(15)(V) may not received an allocation of
10 points pursuant to section 211 of this Act
11 which is section 201(e) as amended for resi-
12 dence in the United States while admitted as
13 such a nonimmigrant.”.

14 (e) PUBLIC BENEFITS.—A noncitizen who is lawfully
15 present in the United States pursuant to section
16 101(a)(15)(V) of the Immigration and Nationality Act (8
17 U.S.C. 1101(a)(15)(V)) is not eligible for any means-test-
18 ed public benefits (as such term is defined in section 403
19 of the Personal Responsibility and Work Opportunity Rec-
20 onciliation Act of 1996 (8 U.S.C. 1613)). A noncitizen ad-
21 mitted under this section is—

22 (1) not entitled to the premium assistance tax
23 credit authorized under section 36B of the Internal
24 Revenue Code of 1986;

1 (2) shall be subject to the rules applicable to in-
2 dividuals not lawfully present that are set forth in
3 subsection (e) of such section; and

4 (3) shall be subject to the rules applicable to in-
5 dividuals not lawfully present that are set forth in
6 section 1402(e) of the Patient Protection and Af-
7 fordable Care Act (42 U.S.C. 18071).

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. 2309. 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)(i) is amended—

16 (1) in clause (i), by inserting “or of an alien
17 lawfully admitted for permanent residence” after
18 “204(a)(1)(A)(viii)(I)”; and

19 (2) in clause (ii), by inserting “or of an alien
20 lawfully admitted for permanent residence” after
21 “204(a)(1)(A)(viii)(I)”; and

22 (3) in clause (iii), by striking the semicolon and
23 inserting “, provided that a determination of the age
24 of such child is made using the age of the alien on
25 the date on which the fiancé, fiancée, or immigrant

1 visa petition is filed with the Secretary of Homeland
2 Security to classify the alien's parent as the fiancée
3 or fiancé of a United States citizen or of an alien
4 lawfully admitted for permanent residence (in the
5 case of an alien parent described in clause (i)) or as
6 the spouse of a citizen of the United States or of an
7 alien lawfully admitted to permanent residence
8 under section 201(b)(2)(A)(i) (in the case of an
9 alien parent described in clause (ii));”.

10 (b) ADJUSTMENT OF STATUS AUTHORIZED.—Section
11 214(d) (8 U.S.C. 1184(d)) is amended—

12 (1) by redesignating paragraphs (2) and (3) as
13 paragraphs (3) and (4), respectively; and

14 (2) in paragraph (1), by striking “In the event”
15 and all that follows through the end; and

16 (3) by inserting after paragraph (1) the fol-
17 lowing:

18 “(2)(A) If an alien does not marry the petitioner
19 under paragraph (1) within 3 months after the alien and
20 the alien's children are admitted into the United States,
21 the visa previously issued under the provisions of section
22 1101(a)(15)(K)(i) shall automatically expire and such
23 alien and children shall be required to depart from the
24 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 inserting “(1)” before “The Attorney
6 General” by striking “The Attorney General” and
7 inserting “(1) The Secretary of Homeland Security”;

8 (2) in paragraph (1), as designated under para-
9 graph (1) of this subsection, by striking “Attorney
10 General” and inserting “Secretary”; and

11 (3) by adding at the end the following:

12 “(2) A determination of the age of an alien admitted
13 to the United States under section 101(a)(15)(K)(iii) shall
14 be made, for purposes of adjustment to the status of an
15 alien lawfully admitted for permanent residence on a con-
16 ditional basis under section 216, using the age of the alien
17 on the date on which the fiancé, fiancée, or immigrant visa
18 petition was filed with the Secretary of Homeland Security
19 to classify the alien's parent as the fiancée or fiancé of
20 a United States citizen or of an alien lawfully admitted
21 to permanent residence (in the case of an alien parent ad-
22 mitted to the United States under section
23 101(a)(15)(K)(i)) or as the spouse of a United States cit-
24 izen or of an alien lawfully admitted to permanent resi-
25 dence under section 201(b)(2)(A)(i) (in the case of an

1 alien 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), if 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.**—Section paragraph
19 (2) of section 245(d) (8 U.S.C. 1255(d)), as add by
20 subsection (e), is further amended by striking sec-
21 tion “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. 2310. 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. 2311. INTERNATIONAL ADOPTION HARMONIZATION.**

6 (a) MODIFICATION OF ADOPTION AGE REQUIRE-
7 MENTS.—Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is
8 amended—

9 (1) in subparagraph (E)—

10 (A) by striking “(E)(i)” and inserting
11 “(E)”;

12 (B) by striking “sixteen” and inserting
13 “18”;

14 (C) by striking “; or” and inserting a
15 semicolon; and

16 (D) by striking clause (ii);

17 (2) in subparagraph (F)—

18 (A) by striking “(F)(i)” and inserting
19 “(F)”;

20 (B) by striking “sixteen” and inserting
21 “18”;

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

24 (D) by striking clause (ii); and

25 (3) in subparagraph (G), by striking “16” and
26 inserting “18”.

1 (b) HARMONIZING ADOPTIONS BETWEEN HAGUE
2 CONVENTION AND NON-HAGUE-CONVENTION COUN-
3 TRIES.—Section 212(a)(1)(C)(ii) (8 U.S.C.
4 1182(a)(1)(C)(ii)) is amended by striking “section
5 101(b)(1)(F),” and inserting “subparagraph (F) or (G)
6 of section 101(b)(1),”.

7 **SEC. 2312. RELIEF FOR ORPHANS, WIDOWS, AND WID-**
8 **OWERS.**

9 (a) IN GENERAL.—

10 (1) SPECIAL RULE FOR ORPHANS AND
11 SPOUSES.—In applying clauses (iii) and (iv) of sec-
12 tion 201(b)(2)(A) of the Immigration and Nation-
13 ality Act, as added by section 102(a) of this Act, to
14 an alien whose citizen or lawful permanent resident
15 relative died before the date of the enactment of this
16 Act, the alien relative may file the classification peti-
17 tion under section 204(a)(1)(A)(ii) of such Act, as
18 amended by section 102(e)(4)(A)(i)(II) of this Act,
19 not later than 2 years after the date of the enact-
20 ment of this Act.

21 (2) ELIGIBILITY FOR PAROLE.—If an alien was
22 excluded, deported, removed, or departed voluntarily
23 before the date of the enactment of this Act based
24 solely upon the alien’s lack of classification as an
25 immediate relative (as defined in section

1 201(b)(2)(A)(iv) of the Immigration and Nationality
2 Act, as amended by section 102(a) of this Act) due
3 to the death of such citizen or resident—

4 (A) such alien shall be eligible for parole
5 into the United States pursuant to the Sec-
6 retary's discretionary authority under section
7 212(d)(5) of such Act (8 U.S.C. 1182(d)(5));
8 and

9 (B) such alien's application for adjustment
10 of status shall be considered notwithstanding
11 section 212(a)(9) of such Act (8 U.S.C.
12 1182(a)(9)).

13 ~~(3) ELIGIBILITY FOR PAROLE.—~~If an alien de-
14 scribed in section 204(l) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1154(l)), was excluded, de-
16 ported, removed, or departed voluntarily before the
17 date of the enactment of this Act—

18 (A) such alien shall be eligible for parole
19 into the United States pursuant to the Sec-
20 retary's discretionary authority under section
21 212(d)(5) of such Act (8 U.S.C. 1182(d)(5));
22 and

23 (B) such alien's application for adjustment
24 of status shall be considered notwithstanding

1 section 212(a)(9) of such Act (8 U.S.C.
2 1182(a)(9)).

3 (b) PROCESSING OF IMMIGRANT VISAS AND DERIVA-
4 TIVE PETITIONS.—

5 (1) IN GENERAL.—Section 204(b) (8 U.S.C.
6 1154(b)) is amended—

7 (A) by striking “After an investigation”
8 and inserting “(1) After an investigation”; and

9 (B) by adding at the end the following:

10 “(2)(A) Any alien described in subparagraph (B)
11 whose qualifying relative died before the completion of im-
12 migrant visa processing may have an immigrant visa ap-
13 plication adjudicated as if such death had not occurred.
14 An immigrant visa issued before the death of the quali-
15 fying relative shall remain valid after such death.

16 “(B) An alien described in this subparagraph is an
17 alien who—

18 “(i) is an immediate relative (as described in
19 section 201(b)(2)(A));

20 “(ii) is a family-sponsored immigrant (as de-
21 scribed in subsection (a) or (d) of section 203);

22 “(iii) is a derivative beneficiary of an employ-
23 ment-based immigrant under section 203(b) (as de-
24 scribed in section 203(d)); or

1 “(iv) is the spouse or child of a refugee (as de-
2 scribed in section 207(e)(2)) or an asylee (as de-
3 scribed in section 208(b)(3)).”.

4 (2) TRANSITION PERIOD.—

5 (A) IN GENERAL.—Notwithstanding a de-
6 nial or revocation of an application for an immi-
7 grant visa for an alien whose qualifying relative
8 died before the date of the enactment of this
9 Act, such application may be renewed by the
10 alien through a motion to reopen, without fee.

11 (B) INAPPLICABILITY OF BARS TO
12 ENTRY.—Notwithstanding section 212(a)(9) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1182(a)(9)), an alien’s application for an immi-
15 grant visa shall be considered if the alien was
16 excluded, deported, removed, or departed volun-
17 tarily before the date of the enactment of this
18 Act.

19 (c) NATURALIZATION.—Section 319(a) (8 U.S.C.
20 1430(a)) is amended by striking “States,” and inserting
21 “States (or if the spouse is deceased, the spouse was a
22 citizen of the United States),”.

23 (d) WAIVERS OF INADMISSIBILITY.—Section 212 (8
24 U.S.C. 1182) is amended by adding at the end the fol-
25 lowing:

1 “(v) CONTINUED WAIVER ELIGIBILITY FOR WIDOWS,
2 WIDOWERS, AND ORPHANS.—In the case of an alien who
3 would have been statutorily eligible for any waiver of inad-
4 missibility under this Act but for the death of a qualifying
5 relative, the eligibility of such alien shall be preserved as
6 if the death had not occurred and the death of the quali-
7 fying relative shall be the functional equivalent of hardship
8 for purposes of any waiver of inadmissibility which re-
9 quires a showing of hardship.”.

10 (e) SURVIVING RELATIVE CONSIDERATION FOR CER-
11 TAIN PETITIONS AND APPLICATIONS.—Section 204(l)(1)
12 (8 U.S.C. 1154(l)(1)) is amended—

13 (1) by striking “who resided in the United
14 States at the time of the death of the qualifying rel-
15 ative and who continues to reside in the United
16 States”; and

17 (2) by striking “related applications,” and in-
18 serting “related applications (including affidavits of
19 support),”.

20 (f) IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i)
21 (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking “with-
22 in 2 years after such date”.

23 (g) FAMILY-SPONSORED IMMIGRANTS.—Section
24 212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)) is amended—

1 (1) in subclause (I), by striking “, or” and in-
2 serting a semicolon;

3 (2) in subclause (II), by striking “or” at the
4 end; and

5 (3) by adding at the end the following:

6 “(IV) the status as a surviving
7 relative under 204(I), or”.

8 **SEC. 2313. DISCRETIONARY AUTHORITY WITH RESPECT TO**
9 **REMOVAL, DEPORTATION OR INADMISS-**
10 **SIBILITY OF CITIZEN AND RESIDENT IMME-**
11 **DIATE FAMILY MEMBERS.**

12 (a) ~~APPLICATIONS FOR RELIEF FROM REMOVAL.—~~
13 Section 240(c)(4) (8 U.S.C. 1229a(c)(4)) is amended by
14 adding at the end the following:

15 “(D) ~~JUDICIAL DISCRETION.—~~In the case
16 of an alien subject to removal, deportation, or
17 exclusion, the immigration judge may exercise
18 discretion to decline to order the alien removed,
19 deported or excluded from the United States
20 and terminate proceedings if the judge deter-
21 mines that such removal, deportation, or exclu-
22 sion is against the public interest or would re-
23 sult in hardship to the alien’s United States cit-
24 izen or permanent resident parent of a child,
25 spouse, or child, or the judge determines the

1 alien is prima facie eligible for naturalization
2 except that this subparagraph shall not apply to
3 an alien whom the judge determines—

4 “(i) is described in—

5 “(I) subparagraph (B), (C),
6 (D)(ii), (E), (H), (I), or (J) of section
7 212(a)(2);

8 “(II) section 212(a)(3);

9 “(III) subparagraph (A), (C), or
10 (D) of section 212(a)(10); or

11 “(IV) paragraph (2)(A)(ii),
12 (2)(A)(v), (2)(F), (4), or (6) of sec-
13 tion 237(a); or

14 “(ii) has—

15 “(I) engaged in conduct de-
16 scribed in paragraph (8) or (9) of sec-
17 tion 103 of the Trafficking Victims
18 Protection Act of 2000 (22 U.S.C.
19 7102); or

20 “(II) a felony conviction de-
21 scribed in section 101(a)(43) that
22 would have been classified as an ag-
23 gravated felony at the time of convic-
24 tion.”.

1 (b) ~~SECRETARY'S DISCRETION.—Section 212 (8~~
 2 ~~U.S.C. 1182), as amended by section 2312(d), is further~~
 3 ~~amended by adding at the end the following:~~

4 ~~“(w) SECRETARY'S DISCRETION.—In the case of an~~
 5 ~~alien inadmissible under this section, the Secretary of~~
 6 ~~Homeland Security may exercise discretion to waive a~~
 7 ~~ground of inadmissibility if the Secretary determines that~~
 8 ~~such refusal of admission is against the public interest or~~
 9 ~~would result in hardship to the alien's United States cit-~~
 10 ~~izen or permanent resident parent, spouse, or child except~~
 11 ~~that this subparagraph shall not apply to an alien whom~~
 12 ~~the Secretary determines—~~

13 ~~“(1) is described in—~~

14 ~~“(A) subparagraph (B), (C), (D)(ii), (E),~~
 15 ~~(H), (I), of subsection (a)(2);~~

16 ~~“(B) subsection (a)(3);~~

17 ~~“(C) subparagraph (A), (C), or (D) of sub-~~
 18 ~~section (a)(10);~~

19 ~~“(D) paragraphs (2)(A)(ii), (2)(A)(v),~~
 20 ~~(2)(F), or (6) of section 237(a); or~~

21 ~~“(E) section 240(c)(4)(D)(ii)(H); or~~

22 ~~“(2) has—~~

23 ~~“(A) engaged in conduct described in para-~~
 24 ~~graph (8) or (9) of section 103 of the Traf-~~

1 ficking Victims Protection Act of 2000 (22
2 U.S.C. 7102); or

3 “(B) a felony conviction described in sec-
4 tion 101(a)(43) that would have been classified
5 as an aggravated felony at the time of convic-
6 tion.”.

7 (e) REINSTATEMENT OF REMOVAL ORDERS.—Sec-
8 tion 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended by strik-
9 ing the period at the end and inserting “, unless the alien
10 reentered prior to attaining the age of 18 years; or rein-
11 statement of the prior order of removal would not be in
12 the public interest or would result in hardship to the
13 alien’s United States citizen or permanent resident parent,
14 spouse, or child.”.

15 **SEC. 2314. WAIVERS OF INADMISSIBILITY.**

16 (a) ALIENS WHO ENTERED AS CHILDREN.—Section
17 212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(iii)) is amended
18 by adding at the end the following:

19 “(VI) ALIENS WHO ENTERED AS
20 CHILDREN.—Clause (i) shall not apply
21 to an alien who is the beneficiary of
22 an approved petition under
23 101(a)(15)(H) and who has earned a
24 baccalaureate or higher degree from a
25 United States institution of higher

1 education (as defined in section
2 101(a) of the Higher Education Act
3 of 1965 (20 U.S.C. 1001(a)), and had
4 not yet reached the age of 16 years at
5 the time of initial entry to the United
6 States.”.

7 (b) ALIENS UNLAWFULLY PRESENT.—Section
8 212(a)(9)(B)(v) (8 U.S.C. 1181(a)(9)(B)(v) is amended—
9 (1) by striking “spouse or son or daughter” and
10 inserting “spouse, son, daughter, or parent”; and
11 (2) by striking “extreme”.

12 (c) PREVIOUS IMMIGRATION VIOLATIONS.—Section
13 212(a)(9)(C)(i) (8 U.S.C. 1182(a)(9)(C)(i)) is amended
14 by adding “, other than an alien described in clause (iii)
15 or (iv) of subparagraph (B),” after “Any alien”.

16 (d) FALSE CLAIMS.—

17 (1) INADMISSIBILITY.—

18 (A) IN GENERAL.—Section 212(a)(6)(C)
19 (8 U.S.C. 1182(a)(6)(C)) is amended to read as
20 follows:

21 “(C) MISREPRESENTATION.—

22 “(i) IN GENERAL.—Any alien who, by
23 fraud or willfully misrepresenting a mate-
24 rial fact, seeks to procure (or within the
25 last 3 years has sought to procure or has

1 procured) a visa, other documentation, or
2 admission into the United States or other
3 benefit provided under this Act is inadmis-
4 sible.

5 “(ii) FALSELY CLAIMING CITIZEN-
6 SHIP.—

7 “(I) INADMISSIBILITY.—Subject
8 to subclause (II), any alien who know-
9 ingly misrepresents himself or herself
10 to be a citizen of the United States
11 for any purpose or benefit under this
12 chapter (including section 274A) or
13 any other Federal or State law is in-
14 admissible.

15 “(II) SPECIAL RULE FOR CHIL-
16 DREN.—An alien shall not be inadmis-
17 sible under this clause if the misrepre-
18 sentation described in subclause (I)
19 was made by the alien when the
20 alien—

21 “(aa) was under 18 years of
22 age; or

23 “(bb) otherwise lacked the
24 mental competence to knowingly

1 misrepresent a claim of United
2 States citizenship.

3 “(iii) WAIVER.—The Attorney General
4 or the Secretary of Homeland Security
5 may, in the discretion of the Attorney Gen-
6 eral or the Secretary, waive the application
7 of clause (i) or (ii)(I) for an alien, regard-
8 less whether the alien is within or outside
9 the United States, if the Attorney General
10 or the Secretary find that a determination
11 of inadmissibility to the United States for
12 such alien would—

13 “(I) result in extreme hardship to
14 the alien or to the alien’s parent,
15 spouse, son, or daughter who is a cit-
16 izen of the United States or an alien
17 lawfully admitted for permanent resi-
18 dence; or

19 “(II) in the case of a VAWA self-
20 petitioner, result in significant hard-
21 ship to the alien or a parent or child
22 of the alien who is a citizen of the
23 United States, an alien lawfully ad-
24 mitted for permanent residence, or a
25 qualified alien (as defined in section

1 431 of the Personal Responsibility
2 and Work Opportunity Reconciliation
3 Act of 1996 (8 U.S.C. 1641(b)).

4 “(iv) LIMITATION ON REVIEW.—No
5 court shall have jurisdiction to review a de-
6 cision or action of the Attorney General or
7 the Secretary regarding a waiver under
8 clause (iii).”.

9 (B) CONFORMING AMENDMENT.—Section
10 212 (8 U.S.C. 1182) is amended by striking
11 subsection (i).

12 (2) DEPORTABILITY.—Section 237(a)(3)(D) (8
13 U.S.C. 1227(a)(3)(D)) is amended to read as fol-
14 lows:

15 “(D) FALSELY CLAIMING CITIZENSHIP.—
16 Any alien described in section 212(a)(6)(C)(ii)
17 is deportable.”.

18 **SEC. 2315. CONTINUOUS PRESENCE.**

19 Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amend-
20 ed to read as follows:

21 “(1) TERMINATION OF CONTINUOUS PERIOD.—
22 For purposes of this section, any period of contin-
23 uous residence or continuous physical presence in
24 the United States shall be deemed to end, except in
25 the case of an alien who applies for cancellation of

1 removal under subsection (b)(2), on the date that a
2 notice to appear is filed with the Executive Office
3 for Immigration Review pursuant to section 240.”.

4 **SEC. 2316. GLOBAL HEALTH CARE COOPERATION.**

5 (a) TEMPORARY ABSENCE OF ALIENS PROVIDING
6 HEALTH CARE IN DEVELOPING COUNTRIES.—

7 (1) IN GENERAL.—Title III (8 U.S.C. 1401 et
8 seq.) is amended by inserting after section 317 the
9 following:

10 **“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING**
11 **HEALTH CARE IN DEVELOPING COUNTRIES.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of this Act, the Secretary of Homeland Security
14 shall allow an eligible alien and the spouse or child of such
15 alien to reside in a candidate country during the period
16 that the eligible alien is working as a physician or other
17 health care worker in a candidate country. During such
18 period the eligible alien and such spouse or child shall be
19 considered—

20 “(1) to be physically present and residing in the
21 United States for purposes of naturalization under
22 section 316(a); and

23 “(2) to meet the continuous residency require-
24 ments under section 316(b).

25 “(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 “(e) 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 of
17 Homeland Security shall begin to carry out subpara-
18 graph (E) of section 212(a)(5) of the Immigration
19 and Nationality Act, as added by paragraph (1), in-
20 cluding the requirement for the attestation and the
21 granting of a waiver described in clause (iii) of such
22 subparagraph (E), regardless of whether regulations
23 to implement such subparagraph have been promul-
24 gated.

1 **SEC. 2317. 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.”; and

19 (2) in section 1244—

20 (A) 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 (H) in subparagraph (C), by
12 striking “United States Government”
13 and inserting “an entity or organiza-
14 tion described in subparagraph (B)”;
15 and

16 (HH) in subparagraph (D), by
17 striking by striking “United States
18 Government.” and inserting “such en-
19 tity or organization.”;

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”;

1 (II) by striking “United States
2 Government prior” and inserting “an
3 entity or organization described in
4 paragraph (1)(B) prior”; and

5 (III) by adding at the end the
6 following:

7 “(B) REVIEW PROCESS FOR DENIAL BY
8 CHIEF OF MISSION.—

9 “(i) IN GENERAL.—An applicant who
10 has been denied Chief of Mission approval
11 required by subparagraph (A) shall—

12 “(I) receive a written decision;
13 and

14 “(II) be provided 120 days from
15 the date of the decision to request re-
16 opening of the decision to provide ad-
17 ditional information, clarify existing
18 information, or explain any unfavor-
19 able information.

20 “(ii) SENIOR COORDINATOR.—The
21 Secretary of State shall designate, in the
22 Embassy of the United States in Baghdad,
23 Iraq, a senior coordinator responsible for
24 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. 2318. 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 ~~“United~~
20 ~~States Government”~~ and inserting ~~“an en-~~
21 ~~tity or organization described in clause~~
22 ~~(ii)”~~; and

23 (iii) in clause (iv), by striking ~~by~~
24 ~~striking “United States Government.”~~ and
25 inserting ~~“such entity or organization.”~~;

1 (B) by amending subparagraph (B) to read
2 as follows:

3 “(B) FAMILY MEMBERS.—An alien is de-
4 scribed in this subparagraph if the alien is—

5 “(i) the spouse or minor child of a
6 principal alien described in subparagraph
7 (A) who is accompanying or following to
8 join the principal alien in the United
9 States; or

10 “(ii)(I) the spouse, child, parent or
11 sibling of a principal alien described in
12 subparagraph (A), whether or not accom-
13 panying or following to join; and

14 “(II) has experienced or is experi-
15 encing an ongoing serious threat as a con-
16 sequence of the qualifying employment of a
17 principal alien described in subparagraph
18 (A).”;

19 (C) in subparagraph (D)—

20 (i) by striking “A recommendation”
21 and inserting the following:

22 “(i) IN GENERAL.—Except as pro-
23 vided under clause (ii), a recommenda-
24 tion”;

1 (ii) by striking “United States Gov-
2 ernment prior” and inserting “an entity or
3 organization described in paragraph
4 (2)(A)(ii) prior”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(ii) REVIEW PROCESS FOR DENIAL
8 BY CHIEF OF MISSION.—

9 “(I) IN GENERAL.—An applicant
10 who has been denied Chief of Mission
11 approval shall—

12 “(aa) receive a written deci-
13 sion; and

14 “(bb) be provided 120 days
15 from the date of receipt of such
16 opinion to request reconsider-
17 ation of the decision to provide
18 additional information, clarify ex-
19 isting information, or explain any
20 unfavorable information.

21 “(II) SENIOR COORDINATOR.—

22 The Secretary of State shall des-
23 ignate, in the Embassy of the United
24 States in Kabul, Afghanistan, a senior
25 coordinator responsible for overseeing

1 the efficiency and integrity of the
2 processing of special immigrant visas
3 under this section, who shall be
4 given—

5 “(aa) sufficiently high secu-
6 rity clearance to review Chief of
7 Mission denials in cases that ap-
8 pear to have relied upon insuffi-
9 cient or incorrect information;
10 and

11 “(bb) responsibility for en-
12 suring that an applicant de-
13 scribed in subclause (I) receives
14 the information described in sub-
15 clause (I)(aa).”;

16 (2) in paragraph (3)(C), by amending clause
17 (iii) to read as follows:

18 “(iii) FISCAL YEARS 2014 THROUGH
19 2018.—For each of the fiscal years 2014
20 through 2018, the total number of prin-
21 cipal aliens who may be provided special
22 immigrant status under this section may
23 not exceed the sum of—

24 “(I) 5,000;

1 “(II) the difference between the
2 number of special immigrant visas al-
3 located under this section for fiscal
4 years 2009 through 2013 and the
5 number of such allocated visas that
6 were issued; and

7 “(III) any unused balance of the
8 total number of principal aliens who
9 may be provided special immigrant
10 status in fiscal years 2014 through
11 2018 that have been carried for-
12 ward.”;

13 (3) in paragraph (4)—

14 (A) in the heading, by striking “PROHIBI-
15 TION ON FEES.—”and inserting “APPLICATION
16 PROCESS.—”;

17 (B) by striking “The Secretary” and in-
18 serting the following:

19 “(A) IN GENERAL.—Not later than 120
20 days after the date of enactment of the Border
21 Security, Economic Opportunity, and Immigra-
22 tion Modernization Act, the Secretary of State
23 and the Secretary of Homeland Security, in
24 consultation with the Secretary of Defense,
25 shall improve the efficiency by which applica-

1 tions for special immigrant visas under para-
2 graph (1) are processed so that all steps inci-
3 dental to the issuance of such visas, including
4 required screenings and background checks, are
5 completed not later than 6 months after the
6 date on which an eligible alien applies for such
7 visa.

8 “(B) PROHIBITION ON FEES.—The Sec-
9 retary”;

10 (4) by adding at the end the following:

11 “(12) REPORT ON IMPROVEMENTS.—Not later
12 than 120 days after the date of the enactment of the
13 Border Security, Economic Opportunity, and Immi-
14 gration Modernization Act, the Secretary of State
15 and the Secretary of Homeland Security, in con-
16 sultation with the Secretary of Defense, shall submit
17 to the appropriate committees a report, with a clas-
18 sified annex, if necessary, that describes the imple-
19 mentation of improvements to the processing of ap-
20 plications for special immigrant visas under this sub-
21 section, including information relating to—

22 “(A) enhancing existing systems for con-
23 ducting background and security checks of per-
24 sons applying for special immigrant status,
25 which shall—

1 “(i) support immigration security; and

2 “(ii) provide for the orderly processing

3 of such applications without delay;

4 “(B) the financial, security, and personnel

5 considerations and resources necessary to carry

6 out this section;

7 “(C) the number of aliens who have ap-

8 plied for special immigrant visas under this

9 subsection during each month of the preceding

10 fiscal year;

11 “(D) the reasons for the failure to expedi-

12 tiously process any applications that have been

13 pending for longer than 9 months;

14 “(E) the total number of applications that

15 are pending due to the failure—

16 “(i) to receive approval from the Chief

17 of Mission;

18 “(ii) for U.S. Citizenship and Immi-

19 gration Services to complete the adjudica-

20 tion of the Form I-360;

21 “(iii) to conduct a visa interview; or

22 “(iv) to issue the visa to an eligible

23 alien;

1 “(F) the average wait times for an appli-
2 cant at each of the stages described in subpara-
3 graph (E);

4 “(G) the number of denials or rejections at
5 each of the stages described in subparagraph
6 (E); and

7 “(H) a breakdown of reasons for denials
8 by the Chief of Mission based on the categories
9 already made available to denied special immi-
10 grant visa applicants in the denial letter sent to
11 them by the Chief of Mission.

12 “(13) PUBLIC QUARTERLY REPORTS .—Not
13 later than 120 days after the date of the enactment
14 of the Border Security, Economic Opportunity, and
15 Immigration Modernization Act, and every 3 months
16 thereafter, the Secretary of State and the Secretary
17 of Homeland Security, in consultation with the Sec-
18 retary of Defense, shall publish a report on the
19 website of the Department of State that describes
20 the efficiency improvements made in the process by
21 which applications for special immigrant visas under
22 this subsection are processed, including information
23 described in subparagraph (C) through (H) of para-
24 graph (12).”.

1 **SEC. 2319. ELIMINATION OF SUNSETS FOR CERTAIN VISA**
2 **PROGRAMS.**

3 (a) **SPECIAL IMMIGRANT NONMINISTER RELIGIOUS**
4 **WORKER PROGRAM.**—Section 101(a)(27)(C)(ii) (8 U.S.C.
5 ~~1101~~ (a)(27)(C)(ii)) is amended in subclauses (II) and
6 (III) by striking “before September 30, 2015,” both places
7 such term appears.

8 (b) **EB -5 REGIONAL CENTER PROGRAM.**—Section
9 610(b) of the Departments of Commerce, Justice, and
10 State, the Judiciary, and Related Agencies Appropriations
11 Act, 1993 (Public Law 102-395; 8 U.S.C. 1153 note) is
12 amended by striking “until September 30, 2015”.

13 **Subtitle D—Conrad State 30 and**
14 **Physician Access**

15 **SEC. 2401. CONRAD STATE 30 PROGRAM.**

16 Section 220(e) of the Immigration and Nationality
17 Technical Corrections Act of 1994 (Public Law 103-416;
18 8 U.S.C. 1182 note) is amended by striking “and before
19 September 30, 2015”.

20 **SEC. 2402. RETAINING PHYSICIANS WHO HAVE PRACTICED**
21 **IN MEDICALLY UNDERSERVED COMMU-**
22 **NITIES.**

23 Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended
24 by section 217(b), is further amended by adding at the
25 end the following:

1 “(L)(i) Alien physicians who have completed
2 service requirements of a waiver requested under
3 section 203(b)(2)(B)(ii), including alien physicians
4 who completed such service before the date of the
5 enactment of the Border Security, Economic Oppor-
6 tunity, and Immigration Modernization Act and any
7 spouses or children of such alien physicians.

8 “(ii) Nothing in this subparagraph may be con-
9 strued—

10 “(I) to prevent the filing of a petition with
11 the Secretary of Homeland Security for classi-
12 fication under section 204(a) or the filing of an
13 application for adjustment of status under sec-
14 tion 245 by an alien physician described in this
15 subparagraph prior to the date by which such
16 alien physician has completed the service de-
17 scribed in section 214(l) or worked full-time as
18 a physician for an aggregate of 5 years at the
19 location identified in the section 214(l) waiver
20 or in an area or areas designated by the Sec-
21 retary of Health and Human Services as having
22 a shortage of health care professionals; or

23 “(II) to permit the Secretary of Homeland
24 Security to grant such a petition or application

1 until the alien has satisfied all the requirements
2 of the waiver received under section 214(l).”.

3 **SEC. 2403. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

4 (a) ~~IN GENERAL.~~—Section 214(l)(1)(C) (8 U.S.C.
5 1184(l)(1)(C)) is amended by striking clauses (i) and (ii)
6 and inserting the following:

7 “(i) the alien demonstrates a bona fide
8 offer of full-time employment, at a health care
9 organization, which employment has been deter-
10 mined by the Secretary of Homeland Security
11 to be in the public interest; and

12 “(ii) the alien agrees to begin employment
13 with the health facility or health care organiza-
14 tion in a geographic area or areas which are
15 designated by the Secretary of Health and
16 Human Services as having a shortage of health
17 care professionals by the later of the date that
18 is 90 days after receiving such waiver, 90 days
19 after completing graduate medical education or
20 training under a program approved pursuant to
21 section 212(j)(1), or 90 days after receiving
22 nonimmigrant status or employment authoriza-
23 tion, and agrees to continue to work for a total
24 of not less than 3 years in any status author-

1 ized for such employment under this subsection
2 unless—

3 “(I) the Secretary determines that ex-
4 tenuating circumstances exist that justify a
5 lesser period of employment at such facility
6 or organization, in which case the alien
7 shall demonstrate another bona fide offer
8 of employment at a health facility or
9 health care organization, for the remainder
10 of such 3-year period;

11 “(II) the interested State agency that
12 requested the waiver attests that extenu-
13 ating circumstances exist that justify a
14 lesser period of employment at such facility
15 or organization in which case the alien
16 shall demonstrate another bona fide offer
17 of employment at a health facility or
18 health care organization so designated by
19 the Secretary of Health and Human Serv-
20 ices, for the remainder of such 3-year pe-
21 riod; or

22 “(III) if the alien elects not to pursue
23 a determination of extenuating cir-
24 cumstances pursuant to subclause (I) or
25 (II), the alien terminates the alien’s em-

1 employment relationship with such facility or
2 organization, in which case the alien shall
3 be employed for the remainder of such ~~2~~
4 year period, and ~~1~~ additional year for each
5 termination, at another health facility or
6 health care organization in a geographic
7 area or areas which are designated by the
8 Secretary of Health and Human Services
9 as having a shortage of health care profes-
10 sionals; and”.

11 (b) CONTRACT REQUIREMENTS.—Section 214(l) (8
12 U.S.C. 1184(l)) is amended by adding at the end the fol-
13 lowing:

14 “(4) An alien granted a waiver under paragraph
15 (1)(C) shall enter into an employment agreement with the
16 contracting health facility or health care organization
17 that—

18 “(A) specifies the maximum number of on-call
19 hours per week (which may be a monthly average)
20 that the alien will be expected to be available and
21 the compensation the alien will receive for on-call
22 time;

23 “(B) specifies whether the contracting facility
24 or organization will pay for the alien’s malpractice
25 insurance premiums, including whether the employer

1 will provide malpractice insurance and, if so, the
2 amount of such insurance that will be provided;

3 ~~“(C) describes all of the work locations that the~~
4 ~~alien will work and a statement that the contracting~~
5 ~~facility or organization will not add additional work~~
6 ~~locations without the approval of the Federal agency~~
7 ~~or State agency that requested the waiver; and~~

8 ~~“(D) does not include a non-compete provision.~~

9 ~~“(5) An alien granted a waiver under paragraph~~
10 ~~(1)(C) whose employment relationship with a health facil-~~
11 ~~ity or health care organization terminates during the 3-~~
12 ~~year service period required by such paragraph—~~

13 ~~“(A) shall have a period of 120 days beginning~~
14 ~~on the date of such termination of employment to~~
15 ~~submit to the Secretary of Homeland Security appli-~~
16 ~~cations or petitions to commence employment with~~
17 ~~another contracting health facility or health care or-~~
18 ~~ganization in a geographic area or areas which are~~
19 ~~designated by the Secretary of Health and Human~~
20 ~~Services as having a shortage of health care profes-~~
21 ~~sionals; and~~

22 ~~“(B) shall be considered to be maintaining law-~~
23 ~~ful status in an authorized stay during the 120-day~~
24 ~~period referred to in subsection (A).”.~~

1 **SEC. 2404. ALLOTMENT OF CONRAD 30 WAIVERS.**

2 (a) IN GENERAL.—Section 214(l) (8 U.S.C. 1184(l)),
3 as amended by section 333(b), is further amended by add-
4 ing at the end the following:

5 “(6)(A)(i) All States shall be allotted a total of 35
6 waivers under paragraph (1)(B) for a fiscal year if 90 per-
7 cent of the waivers available to the States receiving at
8 least 5 waivers were used in the previous fiscal year.

9 “(ii) When an allocation has occurred under clause
10 (i), all States shall be allotted an additional 5 waivers
11 under paragraph (1)(B) for each subsequent fiscal year
12 if 90 percent of the waivers available to the States receiv-
13 ing at least 5 waivers were used in the previous fiscal year.
14 If the States are allotted 45 or more waivers for a fiscal
15 year, the States will only receive an additional increase
16 of 5 waivers the following fiscal year if 95 percent of the
17 waivers available to the States receiving at least 1 waiver
18 were used in the previous fiscal year.

19 “(B) Any increase in allotments under subparagraph
20 (A) shall be maintained indefinitely, unless in a fiscal year,
21 the total number of such waivers granted is 5 percent
22 lower than in the last year in which there was an increase
23 in the number of waivers allotted pursuant to this para-
24 graph, in which case—

1 “(i) the number of waivers allotted shall be de-
2 creased by 5 for all States beginning in the next fis-
3 cal year; and

4 “(ii) each additional 5 percent decrease in such
5 waivers granted from the last year in which there
6 was an increase in the allotment, shall result in an
7 additional decrease of 5 waivers allotted for all
8 States, provided that the number of waivers allotted
9 for all States shall not drop below 30.”.

10 (b) ~~ACADEMIC MEDICAL CENTERS.~~—Section
11 214(l)(1)(D) (8 U.S.C. 1184(l)(1)(D)) is amended—

12 (1) in clause (ii), by striking “and” at the end;

13 (2) in clause (iii), by striking the period at the
14 end and inserting “; and”; and

15 (3) by adding at the end the following:

16 “(iv) in the case of a request by an inter-
17 ested State agency—

18 “(I) the head of such agency deter-
19 mines that the alien is to practice medicine
20 in, or be on the faculty of a residency pro-
21 gram at, an academic medical center (as
22 that term is defined in section
23 411.355(e)(2) of title 42, Code of Federal
24 Regulation, or similar successor regula-
25 tion); without regard to whether such facil-

1 ity is located within an area designated by
2 the Secretary of Health and Human Serv-
3 ices as having a shortage of health care
4 professionals; and

5 “(H) the head of such agency deter-
6 mines that—

7 “(aa) the alien physician’s work
8 is in the public interest; and

9 “(bb) the grant of such waiver
10 would not cause the number of the
11 waivers granted on behalf of aliens for
12 such State for a fiscal year (within
13 the limitation in subparagraph (B)
14 and subject to paragraph (6)) in ac-
15 cordance with the conditions of this
16 clause to exceed 3.”.

17 **SEC. 2405. AMENDMENTS TO THE PROCEDURES, DEFINI-**
18 **TIONS, AND OTHER PROVISIONS RELATED TO**
19 **PHYSICIAN IMMIGRATION.**

20 (a) DUAL INTENT FOR PHYSICIANS SEEKING GRAD-
21 UATE MEDICAL TRAINING.—Section 214(b) (8 U.S.C.
22 1184(b)) is amended by striking “(other than a non-
23 immigrant described in subparagraph (L) or (V) of section
24 101(a)(15), and other than a nonimmigrant described in
25 any provision of section 101(a)(15)(H)(i) except subclause

1 ~~(b1) of such section)~~” and inserting “(other than a non-
2 immigrant described in subparagraph (L) or (V) of section
3 101(a)(15), a nonimmigrant described in any provision of
4 section 101(a)(15)(H)(i), except subclause (b1) of such
5 section, and an alien coming to the United States to re-
6 ceive graduate medical education or training as described
7 in section 212(j) or to take examinations required to re-
8 ceive graduate medical education or training as described
9 in section 212(j))”.

10 (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-
11 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-
12 SERVED AREAS.—Section 214(l)(2)(A) (8 U.S.C.
13 1184(l)(2)(A)) is amended by striking “an alien described
14 in section 101(a)(15)(H)(i)(b).” and inserting “any status
15 authorized for employment under this Act.”.

16 (c) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-
17 FICATIONS.—Section 203(b)(2)(B)(ii)(I) (8 U.S.C.
18 1153(b)(2)(B)(ii)(I)) is amended by striking items (aa)
19 and (bb) and inserting the following:

20 “(aa) the alien physician agrees to
21 work on a full-time basis practicing pri-
22 mary care, specialty medicine, or a com-
23 bination thereof, in an area or areas des-
24 ignated by the Secretary of Health and
25 Human Services as having a shortage of

1 health care professionals, or at a health
2 care facility under the jurisdiction of the
3 Secretary of Veterans Affairs; or

4 “(bb) the alien physician is pursuing
5 such waiver based upon service at a facility
6 or facilities that serve patients who reside
7 in a geographic area or areas designated
8 by the Secretary of Health and Human
9 Services as having a shortage of health
10 care professionals (without regard to
11 whether such facility or facilities are lo-
12 cated within such an area) and a Federal
13 agency, or a local, county, regional, or
14 State department of public health deter-
15 mines the alien physician’s work was or
16 will be in the public interest.”.

17 (d) SHORT TERM WORK AUTHORIZATION FOR PHY-
18 SICIANS COMPLETING THEIR RESIDENCIES.—A physician
19 completing graduate medical education or training as de-
20 scribed in section 212(j) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1182(j)) as a nonimmigrant described
22 section 101(a)(15)(H)(i) of such Act (8 U.S.C.
23 1101(a)(15)(H)(i)) shall have such nonimmigrant status
24 automatically extended until October 1 of the fiscal year
25 for which a petition for a continuation of such non-

1 immigrant status has been submitted in a timely manner
2 and where the employment start date for the beneficiary
3 of such petition is October 1 of that fiscal year. Such phy-
4 sician shall be authorized to be employed incident to status
5 during the period between the filing of such petition and
6 October 1 of such fiscal year. However, the physician's
7 status and employment authorization shall terminate 30
8 days from the date such petition is rejected, denied or re-
9 voked. A physician's status and employment authorization
10 will automatically extend to October 1 of the next fiscal
11 year if all visas as described in such section
12 101(a)(15)(H)(i) authorized to be issued for the fiscal
13 year have been issued.

14 (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES
15 AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse
16 or child of an exchange visitor described in section
17 101(a)(15)(J) of the Immigration and Nationality Act (8
18 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-
19 ments of section 212(e) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1182(e)).

21 **Subtitle E—Integration**

22 **SEC. 2501. DEFINITIONS.**

23 In this subtitle:

24 (1) CHIEF.—The term “Chief” means the Chief
25 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.

3 (6) OFFICE.—The term “Office” means the Of-
4 fice of Citizenship and New Americans established in
5 U.S. Citizenship and Immigration Services under
6 section 2511.

7 (7) RECEIVING COMMUNITIES.—The term “re-
8 ceiving communities” means the long-term residents
9 of the communities in which immigrants settle.

10 (8) TASK FORCE.—The term “Task Force”
11 means the Task Force on New Americans estab-
12 lished pursuant to section 2521.

13 (9) USCF COUNCIL.—The term “USCF Coun-
14 cil” means the Council of Directors of the Founda-
15 tion.

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.—

22 (1) IN GENERAL.—Beginning on the date of the
23 enactment of this Act, the Office of Citizenship in
24 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 eans.”.

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 training on
11 citizenship responsibilities for aliens interested
12 in becoming naturalized citizens of the United
13 States, including the development of edu-
14 cational 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) advise the Director of U.S. Citizen-
20 ship and Immigration Services, the Secretary of
21 Homeland Security, and the Domestic Policy
22 Council on—

23 “(i) the challenges and opportunities
24 relating to the linguistic, economic, and
25 civic integration of immigrants and their

1 young children and progress in meeting in-
2 tegration goals and indicators; and

3 “(ii) immigrant integration consider-
4 ations relating to Federal budgets;

5 “(D) establish national goals for intro-
6 ducing new immigrants into the United States
7 and measure the degree to which such goals are
8 met;

9 “(E) evaluate the scale, quality, and effec-
10 tiveness of Federal Government efforts in immi-
11 grant integration and provide advice on appro-
12 priate actions;

13 “(F) identify the integration implications
14 of new or proposed immigration policies and
15 provide recommendations for addressing such
16 implications;

17 “(G) continue the efforts of the Task
18 Force on New Americans established by Execu-
19 tive Order 13404 (71 Fed. Reg. 33593);

20 “(H) serve as a liaison and intermediary
21 with State and local governments and other en-
22 tities to assist in establishing local goals, task
23 forces, and councils to assist in—

24 “(i) introducing immigrants into the
25 United States; and

1 “(ii) promoting citizenship education
2 and awareness among aliens interested in
3 becoming naturalized citizens of the United
4 States;

5 “(I) coordinate with other Federal agencies
6 to provide information to State and local gov-
7 ernments on the demand for existing Federal
8 and State English acquisition and citizenship
9 education programs and best practices for im-
10 migrants who recently arrived in the United
11 States;

12 “(J) assist States in coordinating the ac-
13 tivities of the grant programs authorized under
14 sections 2537 and 2538 of the Border Security,
15 Economic Opportunity, and Immigration Mod-
16 ernization Act;

17 “(K) submit a biennial report to the appro-
18 priate congressional committees that describes
19 the activities of the Office of Citizenship and
20 New Americans; and

21 “(L) carry out such other functions and
22 activities as Secretary may assign.”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 subsections (a) and (b) shall take effect on the date that
25 is 1 year after the date of the enactment of this Act.

1 **Subchapter B—Task Force on New**
2 **Americans**

3 **SEC. 2521. ESTABLISHMENT.**

4 (a) **IN GENERAL.**—The Secretary shall establish a
5 Task Force on New Americans.

6 (b) **FULLY FUNCTIONAL.**—The Task Force shall be
7 fully functional not later than 18 months after the date
8 of the enactment of this Act.

9 **SEC. 2522. PURPOSE.**

10 The purposes of the Task Force are—

11 (1) to establish a coordinated Federal program
12 and policy response to immigrant integration issues;
13 and

14 (2) to advise and assist the Secretary in identi-
15 fying and fostering policies to carry out the policies
16 and goals established under this chapter.

17 **SEC. 2523. MEMBERSHIP.**

18 (a) **IN GENERAL.**—The Task Force shall be com-
19 prised of—

20 (1) the Secretary, who shall serve as Chair of
21 the Task Force;

22 (2) the Secretary of the Treasury;

23 (3) the Attorney General;

24 (4) the Secretary of Commerce;

25 (5) the Secretary of Labor;

1 (6) the Secretary of Health and Human Serv-
2 ices;

3 (7) the Secretary of Housing and Urban Devel-
4 opment;

5 (8) the Secretary of Transportation;

6 (9) the Secretary of Education;

7 (10) the Director of the Office of Management
8 and Budget;

9 (11) the Administrator of the Small Business
10 Administration;

11 (12) the Director of the Domestic Policy Coun-
12 cil; and

13 (13) the Director of the National Economic
14 Council.

15 (b) DELEGATION.—A member of the Task Force may
16 delegate a senior official, at the Assistant Secretary, Dep-
17 uty Administrator, Deputy Director, or Assistant Attorney
18 General level to perform the functions of a Task Force
19 member described in section 2524.

20 **SEC. 2524. FUNCTIONS.**

21 (a) MEETINGS; FUNCTIONS.—The Task Force
22 shall—

23 (1) meet at the call of the Chair; and

24 (2) perform such functions as the Secretary
25 may prescribe.

1 (b) ~~COORDINATED RESPONSE.~~—The Task Force
2 shall work with executive branch agencies—

3 ~~(1) to provide a coordinated Federal response~~
4 ~~to issues that impact the lives of new immigrants~~
5 ~~and receiving communities, including—~~

6 ~~(A) access to youth and adult education~~
7 ~~programming;~~

8 ~~(B) workforce training;~~

9 ~~(C) health care policy;~~

10 ~~(D) access to naturalization; and~~

11 ~~(E) community development challenges;~~

12 and

13 ~~(2) to ensure that Federal programs and poli-~~
14 ~~cies adequately address such impacts.~~

15 (c) ~~LIAISONS.~~—Members of the Task Force shall
16 serve as liaisons to their respective agencies to ensure the
17 quality and timeliness of their agency's participation in ac-
18 tivities of the Task Force, including—

19 ~~(1) creating integration goals and indicators;~~

20 ~~(2) implementing the biannual consultation~~
21 ~~process with the agency's State and local counter-~~
22 ~~parts; and~~

23 ~~(3) reporting on agency data collection, policy,~~
24 ~~and program efforts relating to achieving the goals~~
25 ~~and indicators referred to in paragraph (1).~~

1 (d) ~~RECOMMENDATIONS.~~—Not later than 18 months
2 after the end of the period specified in section 2521(b),
3 the Task Force shall—

4 (1) provide recommendations to the Domestic
5 Policy Council and the Secretary on the effects of
6 pending legislation and executive branch policy pro-
7 posals;

8 (2) suggest changes to Federal programs or
9 policies to address issues of special importance to
10 new immigrants and receiving communities;

11 (3) review and recommend changes to policies
12 that have a distinct impact on new immigrants and
13 receiving communities; and

14 (4) assist in the development of legislative and
15 policy proposals of special importance to new immi-
16 grants and receiving communities.

17 **CHAPTER 2—PUBLIC-PRIVATE**
18 **PARTNERSHIP**

19 **SEC. 2531. ESTABLISHMENT OF UNITED STATES CITIZEN-**
20 **SHIP FOUNDATION.**

21 The Secretary, acting through the Director of U.S.
22 Citizenship and Immigration Services, is authorized to es-
23 tablish a nonprofit corporation, which shall be known as
24 the “United States Citizenship Foundation”.

1 **SEC. 2532. FUNDING.**

2 (a) ~~GIFTS TO FOUNDATION.~~—In order to carry out
3 the purposes set forth in section 2533, the Foundation
4 may—

5 (1) solicit, accept, and make gifts of money and
6 other property in accordance with section 501(c)(3)
7 of the Internal Revenue Code of 1986;

8 (2) engage in coordinated work with the De-
9 partment, including the Office and U.S. Citizenship
10 and Immigration Services; and

11 (3) accept, hold, administer, invest, and spend
12 any gift, devise, or bequest of real or personal prop-
13 erty made to the Foundation.

14 (b) ~~GIFTS TO OFFICE OF CITIZENSHIP AND NEW~~
15 ~~AMERICANS.~~—The Office may accept gifts from the Foun-
16 dation to support the functions of the Office.

17 **SEC. 2533. PURPOSES.**

18 The purposes of the Foundation are—

19 (1) to expand citizenship preparation programs
20 for permanent residents;

21 (2) to provide direct assistance for aliens seek-
22 ing provisional immigrant status, legal permanent
23 resident status, or naturalization as a United States
24 citizen; and

25 (3) to coordinate immigrant integration with
26 State and local entities.

1 **SEC. 2534. AUTHORIZED ACTIVITIES.**

2 The Foundation shall carry out its purpose by—

3 (1) making United States citizenship instruc-
4 tion and naturalization application services acces-
5 sible to low-income and other underserved perma-
6 nent resident populations;

7 (2) developing, identifying, and sharing best
8 practices in United States citizenship preparation;

9 (3) supporting innovative and creative solutions
10 to barriers faced by those seeking naturalization;

11 (4) increasing the use of, and access to, tech-
12 nology in United States citizenship preparation pro-
13 grams;

14 (5) engaging receiving communities in the
15 United States citizenship and civic integration proc-
16 ess;

17 (6) administering the New Citizens Award Pro-
18 gram to recognize, in each calendar year, not more
19 than 10 United States citizens who—

20 (A) have made outstanding contributions
21 to the United States; and

22 (B) have been naturalized during the 10-
23 year period ending on the date of such recogni-
24 tion;

25 (7) fostering public education and awareness;

1 (8) coordinate its immigrant integration efforts
2 with the Office;

3 (9) awarding grants to eligible public or private
4 nonprofit organizations under section 2537.

5 (10) awarding grants to State and local govern-
6 ments under section 2538.

7 **SEC. 2535. COUNCIL OF DIRECTORS.**

8 (a) MEMBERS.—The Foundation shall have a Council
9 of Directors, which shall be comprised of—

10 (1) the Director of U.S. Citizenship and Immi-
11 gration Services;

12 (2) the Chief of the Office of Citizenship and
13 New Americans; and

14 (3) 10 directors, appointed by the ex-officio di-
15 rectors designated in paragraphs (1) and (2), from
16 national community-based organizations that pro-
17 mote and assist permanent residents with natu-
18 ralization.

19 (b) APPOINTMENT OF EXECUTIVE DIRECTOR.—The
20 USCF Council shall appoint an Executive Director, who
21 shall oversee the day-to-day operations of the Foundation.

22 **SEC. 2536. POWERS.**

23 The Executive Director is authorized to carry out the
24 purposes set forth in section 2533 on behalf of the Foun-
25 dation by—

1 (1) accepting, holding, administering, investing,
2 and spending any gift, devise, or bequest of real or
3 personal property made to the Foundation;

4 (2) entering into contracts and other financial
5 assistance agreements with individuals, public or pri-
6 vate organizations, professional societies, and gov-
7 ernment agencies to carry out the functions of the
8 Foundation;

9 (3) entering into such other contracts, leases,
10 cooperative agreements, and other transactions as
11 the Executive Director considers appropriate to
12 carry out the activities of the Foundation; and

13 (4) charging such fees for professional services
14 furnished by the Foundation as the Executive Direc-
15 tor determines reasonable and appropriate.

16 **SEC. 2537. INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP**
17 **ASSISTANCE GRANT PROGRAM.**

18 (a) **AUTHORIZATION.**—The Secretary, acting through
19 the Director of U.S. Citizenship and Immigration Serv-
20 ices, may award Initial Entry, Adjustment, and Citizen-
21 ship Assistance grants to eligible public or private, non-
22 profit organizations.

23 (b) **USE OF GRANT FUNDS.**—IEACA grants shall be
24 used for the design and implementation of programs that

1 provide direct assistance, within the scope of the author-
2 ized practice of immigration law—

3 (1) to aliens who are preparing an initial appli-
4 cation for registered provisional immigrant status
5 under section 245B of the Immigration and Nation-
6 ality Act, as added by section 2101 of this Act, in-
7 cluding assisting applicants in—

8 (A) screening to assess prospective appli-
9 cants' potential eligibility or lack of eligibility;

10 (B) completing applications;

11 (C) gathering proof of identification, em-
12 ployment, residence, and tax payment;

13 (D) gathering proof of relationships of eli-
14 gible family members;

15 (E) applying for any waivers for which ap-
16 plicants and qualifying family members may be
17 eligible; and

18 (F) any other assistance that the Secretary
19 or grantee considers useful to aliens who are in-
20 terested in applying for registered provisional
21 immigrant status;

22 (2) to aliens seeking to adjust their status
23 under section 2211 or 2212 of this Act or section
24 245, 245B, or 245C of the Immigration and Nation-
25 ality Act;

1 ~~(3)~~ to legal permanent residents seeking to be-
2 come naturalized United States citizens; and

3 ~~(4)~~ to applicants on—

4 ~~(A)~~ the rights and responsibilities of
5 United States citizenship;

6 ~~(B)~~ civics-based English as a second lan-
7 guage;

8 ~~(C)~~ civics, with a special emphasis on com-
9 mon values and traditions of Americans, includ-
10 ing an understanding of the history of the
11 United States and the principles of the Con-
12 stitution; and

13 ~~(D)~~ applying for United States citizenship.

14 **SEC. 2538. PILOT PROGRAM TO PROMOTE IMMIGRANT IN-**
15 **TEGRATION AT STATE AND LOCAL LEVELS.**

16 ~~(a)~~ GRANTS AUTHORIZED.—The Chief shall establish
17 a pilot program through which the Chief may award
18 grants, on a competitive basis, to States and local govern-
19 ments or other qualifying entities, in collaboration with
20 State and local governments —

21 ~~(1)~~ to establish New Immigrant Councils to
22 carry out programs to integrate new immigrants; or

23 ~~(2)~~ to carry out programs to integrate new im-
24 migrants.

1 (b) APPLICATION.—A State or local government de-
2 siring a grant under this section shall submit an applica-
3 tion to the Chief at such time, in such manner, and con-
4 taining such information as the Chief may reasonably re-
5 quire, including—

6 (1) a proposal to meet an objective or combina-
7 tion of objectives set forth in subsection (d)(3);

8 (2) the number of new immigrants in the appli-
9 cant's jurisdiction; and

10 (3) a description of the challenges in intro-
11 ducing and integrating new immigrants into the
12 State or local community.

13 (c) PRIORITY.—In awarding grants under this sec-
14 tion, the Chief shall give priority to States and local gov-
15 ernments or other qualifying entities that—

16 (1) use matching funds from non-Federal
17 sources, which may include in-kind contributions;

18 (2) demonstrate collaboration with public and
19 private entities to achieve the goals of the com-
20 prehensive plan developed pursuant to subsection
21 (d)(3);

22 (3) are 1 of the 10 States with the highest rate
23 of foreign-born residents; or

24 (4) have experienced a large increase in the
25 population of immigrants during the most recent 10-

1 year period relative to past migration patterns;
2 based on data compiled by the Office of Immigration
3 Statistics or the United States Census Bureau.

4 (d) ~~AUTHORIZED ACTIVITIES.~~—A grant awarded
5 under this subsection may be used—

6 (1) to form a New Immigrant Council, which
7 shall—

8 (A) consist of between 15 and 19 individ-
9 uals, inclusive, from the State, local govern-
10 ment, or qualifying organization;

11 (B) include, to the extent practicable, rep-
12 resentatives from—

13 (i) business;

14 (ii) faith-based organizations;

15 (iii) civic organizations;

16 (iv) philanthropic organizations;

17 (v) nonprofit organizations, including
18 those with experience working with immi-
19 grant communities;

20 (vi) key education stakeholders, such
21 as State educational agencies, local edu-
22 cational agencies, community colleges, and
23 teachers;

24 (vii) State adult education offices;

1 (viii) State or local public libraries;

2 and

3 (ix) State or local governments; and

4 (C) meet not less frequently than once
5 each quarter;

6 (2) to provide subgrants to local communities,
7 city governments, municipalities, nonprofit organiza-
8 tions (including veterans' and patriotic organiza-
9 tions) or other qualifying entities;

10 (3) to develop, implement, expand, or enhance
11 a comprehensive plan to introduce and integrate new
12 immigrants into the State by—

13 (A) improving English language skills;

14 (B) engaging caretakers with limited
15 English proficiency in their child's education
16 through interactive parent and child literacy ac-
17 tivities;

18 (C) improving and expanding access to
19 workforce training programs;

20 (D) teaching United States history, civics
21 education, citizenship rights, and responsibil-
22 ities;

23 (E) promoting an understanding of the
24 form of government and history of the United
25 States and the principles of the Constitution;

- 1 ~~(F)~~ improving financial literacy; and
- 2 ~~(G)~~ focusing on other key areas of impor-
- 3 tance to integration in our society; and
- 4 ~~(4)~~ to engage receiving communities in the citi-
- 5 zenship and civic integration process by—
- 6 ~~(A)~~ increasing local service capacity;
- 7 ~~(B)~~ building meaningful connections be-
- 8 tween newer immigrants and long-time resi-
- 9 dents;
- 10 ~~(C)~~ communicating the contributions of re-
- 11 ceiving communities and new immigrants; and
- 12 ~~(D)~~ engaging leaders from all sectors of
- 13 the community.

14 ~~(e)~~ REPORTING AND EVALUATION.—

- 15 ~~(1)~~ ANNUAL REPORT.—Each grant recipient
- 16 shall submit an annual report to the Office that de-
- 17 scribes—
- 18 ~~(A)~~ the activities undertaken by the grant
- 19 recipient, including how such activities meet the
- 20 goals of the Office, the Foundation, and the
- 21 comprehensive plan described in subsection
- 22 ~~(d)(3)~~;
- 23 ~~(B)~~ the geographic areas being served;
- 24 ~~(C)~~ the number of immigrants in such
- 25 areas; and

1 ~~(D)~~ the primary languages spoken in such
2 areas.

3 ~~(2)~~ ANNUAL EVALUATION.—The Chief shall
4 conduct an annual evaluation of the grant program
5 established under this section—

6 (A) to assess and improve the effectiveness
7 of such grant program;

8 (B) to assess the future needs of immi-
9 grants and of State and local governments re-
10 lated to immigrants; and

11 (C) to ensure that grantees recipients and
12 subgrantees are acting within the scope and
13 purpose of this subchapter.

14 **SEC. 2539. NATURALIZATION CEREMONIES.**

15 (a) IN GENERAL.—The Chief, in consultation with
16 the Director of the National Park Service, the Archivist
17 of the United States, and other appropriate Federal offi-
18 cials, shall develop and implement a strategy to enhance
19 the public awareness of naturalization ceremonies.

20 (b) VENUES.—In developing the strategy under sub-
21 section (a), the Secretary shall consider the use of out-
22 standing and historic locations as venues for select natu-
23 ralization ceremonies.

24 (c) REPORTING REQUIREMENT.—The Secretary shall
25 annually submit a report to Congress that contains—

1 (1) the content of the strategy developed under
2 subsection (a); and

3 (2) the progress made towards the implementa-
4 tion of such strategy.

5 **CHAPTER 3—FUNDING**

6 **SEC. 2541. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) OFFICE OF CITIZENSHIP AND NEW AMERI-
8 CANS.—In addition to any amounts otherwise made avail-
9 able to the Office, there are authorized to be appropriated
10 to carry out the functions described in section 451(f)(2)
11 of the Homeland Security Act of 2002 (6 U.S.C.
12 271(f)(2)), as amended by section 2511(b)—

13 (1) \$10,000,000 for the 5-year period ending
14 on September 30, 2018; and

15 (2) such sums as may be necessary for fiscal
16 year 2019 and subsequent fiscal years.

17 (b) GRANT PROGRAMS.—There are authorized to be
18 appropriated to implement the grant programs authorized
19 under sections 2537 and 2538, and to implement the
20 strategy under section 2539—

21 (1) \$100,000,000 for the 5-year period ending
22 on September 30, 2018; and

23 (2) such sums as may be necessary for fiscal
24 year 2019 and subsequent fiscal years.

1 **CHAPTER 4—REDUCE BARRIERS TO**
2 **NATURALIZATION**

3 **SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SEN-**
4 **IOR NEW AMERICANS.**

5 Section 312 (8 U.S.C. 1423) is amended by striking
6 subsection (b) and inserting the following:

7 “(b) The requirements under subsection (a) shall not
8 apply to any person who—

9 “(1) is unable to comply with such require-
10 ments because of physical or developmental disability
11 or mental impairment; or

12 “(2) on the date on which the person’s applica-
13 tion for naturalization is filed under section 334—

14 “(A) is older than 65 years of age; and

15 “(B) has been living in the United States
16 for periods totaling at least 5 years after being
17 lawfully admitted for permanent residence.

18 “(c) The requirement under subsection (a)(1) shall
19 not apply to any person who, on the date on which the
20 person’s application for naturalization is filed under sec-
21 tion 334—

22 “(1) is older than 50 years of age and has been
23 living in the United States for periods totaling at
24 least 20 years after being lawfully admitted for per-
25 manent residence;

1 “(2) is older than 55 years of age and has been
2 living in the United States for periods totaling at
3 least 15 years after being lawfully admitted for per-
4 manent residence; or

5 “(3) is older than 60 years of age and has been
6 living in the United States for periods totaling at
7 least 10 years after being lawfully admitted for per-
8 manent residence.

9 “(d) The Secretary of Homeland Security may waive,
10 on a case-by-case basis, the requirement under subsection
11 (a)(2) on behalf of any person who, on the date on which
12 the person’s application for naturalization is filed under
13 section 334—

14 “(1) is older than 60 years of age; and

15 “(2) has been living in the United States for
16 periods totaling at least 10 years after being lawfully
17 admitted for permanent residence.”.

18 **SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REG-**

19 **ULAR INTERNET ACCESS.**

20 (a) **ELECTRONIC FILING NOT REQUIRED.—**

21 (1) **IN GENERAL.—**The Secretary may not re-
22 quire that an applicant or petitioner for permanent
23 residence or citizenship of the United States use an
24 electronic method to file any application, or access to
25 a customer account.

1 ~~(2) SUNSET DATE.—~~This subsection shall cease
2 to be effective on October 1, 2020.

3 ~~(b) NOTIFICATION REQUIREMENT.—~~Beginning on
4 October 1, 2020, the Secretary may not require that an
5 applicant or petitioner for permanent residence or citizen-
6 ship of the United States use an electronic method to file
7 any application, or access to a customer account unless
8 the Secretary notifies the Committee on Homeland Secu-
9 rity and Governmental Affairs of the Senate and the Com-
10 mittee on Homeland Security of the House of Representa-
11 tives of such requirement not later than 30 days before
12 the effective date of such requirement.

13 **TITLE III—INTERIOR**
14 **ENFORCEMENT**

15 **Subtitle A—Employment**
16 **Verification System**

17 ~~SEC. 3101. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED~~
18 ~~ALIENS.~~

19 ~~(a) IN GENERAL.—~~Section 274A (8 U.S.C. 1324a)
20 is amended to read as follows:

21 ~~“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.~~

22 ~~“(a) MAKING EMPLOYMENT OF UNAUTHORIZED~~
23 ~~ALIENS UNLAWFUL.—~~

24 ~~“(1) IN GENERAL.—~~It is unlawful for an em-
25 ployer—

1 “(A) to hire, recruit, or refer for a fee an
2 alien for employment in the United States
3 knowing that the alien is an unauthorized alien
4 with respect to such employment; or

5 “(B) to hire, recruit, or refer for a fee for
6 employment in the United States an individual
7 without complying with the requirements under
8 subsections (c) and (d).

9 “(2) CONTINUING EMPLOYMENT.—

10 “(A) PROHIBITION ON CONTINUED EM-
11 PLOYMENT OF UNAUTHORIZED ALIENS.—It is
12 unlawful for an employer, after hiring an alien
13 for employment, to continue to employ the alien
14 in the United States knowing that the alien is
15 (or has become) an unauthorized alien with re-
16 spect to such employment.

17 “(B) PROHIBITION ON CONSIDERATION OF
18 PREVIOUS UNAUTHORIZED STATUS.—Nothing
19 in this section may be construed to prohibit the
20 employment of an individual who is authorized
21 for employment in the United States if such in-
22 dividual was previously an unauthorized alien.

23 “(3) USE OF LABOR THROUGH CONTRACT.—

24 For purposes of this section, any employer that uses
25 a contract, subcontract, or exchange to obtain the

1 labor of an alien in the United States while knowing
2 that the alien is an unauthorized alien with respect
3 to performing such labor shall be considered to have
4 hired the alien for employment in the United States
5 in violation of paragraph (1)(A).

6 “(4) USE OF STATE EMPLOYMENT AGENCY
7 DOCUMENTATION.—For purposes of paragraphs
8 (1)(B), (5), and (6), an employer shall be deemed to
9 have complied with the requirements under sub-
10 section (e) with respect to the hiring of an individual
11 who was referred for such employment by a State
12 employment agency (as defined by the Secretary) if
13 the employer has and retains (for the period and in
14 the manner described in subsection (e)(3)) appro-
15 priate documentation of such referral by such agen-
16 cy, certifying that such agency has complied with the
17 procedures described in subsection (e) with respect
18 to the individual’s referral. An employer that relies
19 on a State agency’s certification of compliance with
20 subsection (e) under this paragraph may utilize and
21 retain the State agency’s certification of compliance
22 with the procedures described in subsection (d), if
23 any, in the manner provided under this paragraph.

24 “(5) GOOD FAITH DEFENSE.—

1 “(A) DEFENSE.—An employer, person, or
2 entity that hires, employs, recruits, or refers in-
3 dividuals for employment in the United States,
4 or is otherwise obligated to comply with the re-
5 quirements under this section and establishes
6 good faith compliance with the requirements
7 under paragraphs (1) through (4) of subsection
8 (e) and subsection (d)—

9 “(i) has established an affirmative de-
10 fense that the employer, person, or entity
11 has not violated paragraph (1)(A) with re-
12 spect to hiring and employing; and

13 “(ii) has established compliance with
14 its obligations under subparagraph (A) and
15 (B) of paragraph (1) and subsection (e)
16 unless the Secretary demonstrates that the
17 employer had knowledge that an individ-
18 uals hired, employed, recruited, or referred
19 by the employer, person, or entity is an au-
20 thorized alien.

21 “(B) FAILURE TO OBTAIN
22 VERIFICATION.—An employer that has made
23 the inquiry under subsection (d) with respect to
24 an individual, but has not received an appro-
25 priate verification of the identity and work eligi-

1 bility of such individual from the System within
2 the time period specified in subsection (d)(4)(C)
3 may retain the defense under subparagraph (A)
4 if the employer timely records in the System the
5 reasons the employer continues to employ the
6 individual.

7 “(C) EXCEPTION FOR CERTAIN EMPLOY-
8 ERS.—An employer who is not required to par-
9 ticipate in the System or who is participating in
10 the System on a voluntary basis pursuant to
11 subsection (d)(2)(I) has established an affirma-
12 tive defense under subparagraph (A) and need
13 not demonstrate compliance with the require-
14 ments under subsection (d).

15 “(6) GOOD FAITH COMPLIANCE.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this subsection, an employer, per-
18 son, or entity is considered to have complied
19 with a requirement under this subsection not-
20 withstanding a technical or procedural failure
21 to meet such requirement if there was a good
22 faith attempt to comply with the requirement.

23 “(B) EXCEPTION IF FAILURE TO CORRECT
24 AFTER NOTICE.—Subparagraph (A) shall not
25 apply if—

1 “(i) the failure is not de minimis;

2 “(ii) the Secretary of Homeland Security
3 has explained to the employer, person,
4 or entity the basis for the failure and why
5 it is not de minimis;

6 “(iii) the employer, person, or entity
7 has been provided a period of not less than
8 30 days (beginning after the date of the
9 explanation) to correct the failure; and

10 “(iv) the employer, person, or entity
11 has not corrected the failure voluntarily
12 within such period.

13 “(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not
14 apply to an employer, person, or entity that has
15 engaged or is engaging in a pattern or practice
16 of violations of paragraph (1)(A) or (2).

17 “(7) PRESUMPTION.—After the date on which
18 an employer is required to participate in the System
19 under subsection (d), the employer is presumed to
20 have acted with knowledge for purposes of para-
21 graph (1)(A) if the employer hires, employs, re-
22 cruits, or refers an employee and fails to make an
23 inquiry to verify the employment authorization sta-
24 tus of the employee through the System.
25

1 “(8) CONTINUED APPLICATION OF WORKFORCE
2 AND LABOR PROTECTION REMEDIES DESPITE UNAU-
3 THORIZED EMPLOYMENT.—An employer may not
4 deny an employee back pay or any other remedy pro-
5 vided under any Federal, State, or local law relating
6 to workplace rights, and a court may not prohibit an
7 employee from pursuing other causes of action giv-
8 ing rise to liability, except any reinstatement remedy
9 prohibited by Federal law, on account of the employ-
10 ee’s status as an unauthorized alien, either during or
11 after the period of employment by the employer.

12 “(9) AVAILABILITY OF REINSTATEMENT AND
13 RELIEF.—Reinstatement and all other appropriate
14 relief shall be available to individuals who—

15 “(A) are lawfully present in the United
16 States at the time such relief is requested; and

17 “(B) lost employment authorized status
18 due to the unlawful acts of the employer and
19 for whom reinstatement would restore such sta-
20 tus.

21 “(b) DEFINITIONS.—In this section:

22 “(1) COMMISSIONER.—The term ‘Commis-
23 sioner’ means the Commissioner of Social Security.

1 “(2) DEPARTMENT.—Except as otherwise pro-
2 vided, the term ‘Department’ means the Department
3 of Homeland Security.

4 “(3) EMPLOYER.—The term ‘employer’ means
5 any person or entity, including an agency or depart-
6 ment of a Federal, State, or local government, an
7 agent, or a System service provider, that hires, em-
8 ploys, recruits, or refers for a fee an individual for
9 employment in the United States that is not casual,
10 sporadic, irregular, or intermittent (as defined by
11 the Secretary).

12 “(4) EMPLOYMENT AUTHORIZED STATUS.—The
13 term ‘employment authorized status’ means, with re-
14 spect to an individual, that the individual is author-
15 ized to be employed in the United States under the
16 immigration laws of the United States.

17 “(5) SECRETARY.—Except as otherwise specifi-
18 cally provided, the term ‘Secretary’ means the Sec-
19 retary of Homeland Security.

20 “(6) SYSTEM.—The term ‘System’ means the
21 Employment Verification System established under
22 subsection (d).

23 “(7) UNAUTHORIZED ALIEN.—The term ‘unau-
24 thorized alien’ means an alien who, with respect to

1 employment in the United States at a particular
2 time—

3 “(A) is not lawfully admitted for perma-
4 nent residence; or

5 “(B) is not authorized to be employed
6 under this Act or by the Secretary.

7 “(8) WORKPLACE RIGHTS.—The term ‘work-
8 place rights’ means rights guaranteed under Fed-
9 eral, State, or local labor or employment laws, in-
10 cluding laws concerning wages and hours, benefits
11 and employment standards, labor relations, work-
12 place health and safety, work-related injuries, non-
13 discrimination, and retaliation for exercising rights
14 under such laws.

15 “(e) DOCUMENT VERIFICATION REQUIREMENTS.—
16 Any employer hiring an individual for employment in the
17 United States shall comply with the following require-
18 ments and the requirements under subsection (d) to verify
19 that the individual has employment authorized status:

20 “(1) ATTESTATION AFTER EXAMINATION OF
21 DOCUMENTATION.—

22 “(A) IN GENERAL.—

23 “(i) EXAMINATION BY EMPLOYER.—

24 An employer shall attest, under penalty of
25 perjury on a form prescribed by the Sec-

1 Border Security, Economic Oppor-
2 tunity, and Immigration Moderniza-
3 tion Act;

4 “(H) shall be available as—

5 “(aa) a paper form;

6 “(bb) a form that may be
7 completed by an employer via
8 telephone;

9 “(cc) an electronic form; or

10 “(dd) a form that is inte-
11 grated electronically with the re-
12 quirements under subsection (d).

13 “(ii) ATTESTATION.—Each such form
14 shall require the employer to sign an attes-
15 tation with a handwritten, electronic, or
16 digital pin code signature, according to
17 standards prescribed by the Secretary.

18 “(iii) COMPLIANCE.—An employer has
19 complied with the requirements under this
20 paragraph with respect to examination of
21 the documents included in subclauses (I)
22 and (II) of subparagraph (A)(i) if—

23 “(I) the employer has, in good
24 faith, followed applicable regulations

1 and any written procedures or instruc-
2 tions provided by the Secretary; and

3 “(H) a reasonable person would
4 conclude that the documentation is
5 genuine and relates to the individual
6 presenting such documentation.

7 “(C) DOCUMENTS ESTABLISHING IDEN-
8 TITY AND EMPLOYMENT AUTHORIZED STA-
9 TUS.—A document is specified in this subpara-
10 graph if the document is unexpired (unless the
11 validity of the document is extended by law)
12 and is 1 of the following:

13 “(i) A United States passport or pass-
14 port card issued to an individual pursuant
15 to the Secretary of State’s authority under
16 the Act entitled ‘An Act to regulate the
17 issue and validity of passports, and for
18 other purposes’, approved July 3, 1926 (22
19 U.S.C. 211a).

20 “(ii) A document issued to an alien
21 evidencing that the alien is lawfully admit-
22 ted for permanent residence or another
23 document issued to an individual evidene-
24 ing the individual’s employment authorized

1 status, as designated by the Secretary, if
2 the document—

3 “(I) contains a photograph of the
4 individual, or such other personal
5 identifying information relating to the
6 individual as the Secretary deter-
7 mines, by regulation, to be sufficient
8 for the purposes of this subparagraph;

9 “(II) is evidence of employment
10 authorized status; and

11 “(III) contains security features
12 to make the document resistant to
13 tampering, counterfeiting, and fraudu-
14 lent use.

15 “(iii) An enhanced driver’s license or
16 identification card issued to a national of
17 the United States by a State or a federally
18 recognized Indian tribe that—

19 “(I) meets the requirements
20 under section 202 of the REAL ID
21 Act of 2005 (division B of Public Law
22 109–13; 49 U.S.C. 30301 note); and

23 “(II) the Secretary has certified
24 by notice published in the Federal
25 Register and through appropriate no-

1 tice directly to employers registered in
2 the System 3 months prior to publica-
3 tion that such enhanced license or
4 card is suitable for use under this
5 subparagraph based upon the accu-
6 racy and security of the issuance proc-
7 ess, security features on the docu-
8 ment, and such other factors as the
9 Secretary may prescribe.

10 “(iv) A passport issued by the appro-
11 priate authority of a foreign country ac-
12 companied by a Form I-94 or Form I-94A
13 (or similar successor form), or other docu-
14 mentation as designated by the Secretary
15 that specifies the individual’s status in the
16 United States and the duration of such
17 status if the proposed employment is not
18 in conflict with any restriction or limitation
19 specified on such form or documentation.

20 “(v) A passport issued by the Fed-
21 erated States of Micronesia or the Repub-
22 lic of the Marshall Islands with evidence of
23 nonimmigrant admission to the United
24 States under the Compact of Free Associa-
25 tion between the United States and the

1 “(iii) A document that complies with
2 the requirements under section 7209(b)(1)
3 of the Intelligence Reform and Terrorism
4 Prevention Act of 2004 (Public Law 108-
5 458; 8 U.S.C. 1185 note).

6 “(iv) For individuals under 18 years
7 of age who are unable to present a docu-
8 ment listed in clause (i) or (ii), documenta-
9 tion of personal identity of such other type
10 as the Secretary determines will provide a
11 reliable means of identification, which may
12 include an attestation as to the individual’s
13 identity by a person 21 years of age or
14 older under penalty of perjury.

15 “(E) DOCUMENTS EVIDENCING EMPLOY-
16 MENT AUTHORIZATION.—A document is speci-
17 fied in this subparagraph if the document is un-
18 expired (unless the validity of the document is
19 extended by law) and is 1 of the following:

20 “(i) A social security account number
21 card issued by the Commissioner, other
22 than a card which specifies on its face that
23 the card is not valid to evidence employ-
24 ment authorized status or has other simi-
25 lar words of limitation.

1 “(ii) Any other documentation evi-
2 dencing employment authorized status that
3 the Secretary determines and publishes in
4 the Federal Register and through appro-
5 priate notice directly to employers reg-
6 istered within the System to be acceptable
7 for purposes of this subparagraph if such
8 documentation, including any electronic se-
9 curity measures linked to such documenta-
10 tion, contains security features to make
11 such documentation resistant to tam-
12 pering, counterfeiting, and fraudulent use.

13 “(F) IDENTITY AUTHENTICATION MECHA-
14 NISM.—

15 “(i) DEFINITIONS.—In this subpara-
16 graph:

17 “(I) COVERED IDENTITY DOCU-
18 MENT.—The term ‘covered identity
19 document’ means a valid—

20 “(aa) United States pass-
21 port, passport card, or a docu-
22 ment evidencing lawful perma-
23 nent residence status or employ-
24 ment authorized status issued to
25 an alien;

1 “(bb) enhanced driver’s li-
2 license or identity card issued by a
3 participating State; or

4 “(cc) photograph and appro-
5 priate identifying information
6 provided by the Secretary of
7 State pursuant to the granting of
8 a visa.

9 “(H) PARTICIPATING STATE.—

10 The term ‘participating State’ means
11 a State that has an agreement with
12 the Secretary to provide the Sec-
13 retary, for purposes of identity
14 verification in the System, with photo-
15 graphs and appropriate identifying in-
16 formation maintained by the State.

17 “(ii) REQUIREMENT FOR IDENTITY
18 AUTHENTICATION.—In addition to
19 verifying the documents specified in sub-
20 paragraph (C), (D), or (E) and utilizing
21 the System under subsection (d), each em-
22 ployer shall use an identity authentication
23 mechanism described in clause (iii) or pro-
24 vided in clause (iv) after it becomes avail-

1 able to verify the identity of each indi-
2 vidual the employer seeks to hire.

3 “(iii) PHOTO TOOL.—

4 “(I) USE REQUIREMENT.—An
5 employer seeking to hire an individual
6 who has a covered identity document
7 shall verify the identity of such indi-
8 vidual using the photo tool described
9 in subclause (II).

10 “(II) DEVELOPMENT REQUIRE-
11 MENT.—The Secretary shall develop
12 and maintain a photo tool that en-
13 ables employers to match the photo on
14 a covered identity document provided
15 to the employer to a photo maintained
16 by a U.S. Citizenship and Immigra-
17 tion Services database.

18 “(iv) ADDITIONAL SECURITY MEAS-
19 URES.—

20 “(I) USE REQUIREMENT.—An
21 employer seeking to hire an individual
22 whose identity may not be verified
23 using the photo tool described in
24 clause (iii) shall verify the identity of
25 such individual using the additional

415

1 security measures described in sub-
2 clause (II).

3 ~~“(II) DEVELOPMENT REQUIRE-~~
4 ~~MENT.—~~The Secretary shall develop,
5 after publication in the Federal Reg-
6 ister and an opportunity for public
7 comment, specific and effective addi-
8 tional security measures to adequately
9 verify the identity of an individual
10 whose identity may not be verified
11 using the photo tool described in
12 clause (iii). Such additional security
13 measures—

14 ~~“(aa) shall be kept up-to-~~
15 ~~date with technological advances;~~
16 ~~and~~

17 ~~“(bb) shall provide a means~~
18 ~~of identity authentication in a~~
19 ~~manner that provides a high level~~
20 ~~of certainty as to the identity of~~
21 ~~such individual, using immigra-~~
22 ~~tion and identifying information~~
23 ~~that may include review of iden-~~
24 ~~tity documents or background~~
25 ~~screening verification techniques~~

1 using publicly available informa-
2 tion.

3 “(G) AUTHORITY TO PROHIBIT USE OF
4 CERTAIN DOCUMENTS.—If the Secretary deter-
5 mines, after publication in the Federal Register
6 and an opportunity for public comment, that any
7 document or class of documents specified in
8 subparagraph (B), (C), or (D) does not reliably
9 establish identity or that employment author-
10 ized status is being used fraudulently to an un-
11 acceptable degree, the Secretary—

12 “(i) may prohibit or restrict the use of
13 such document or class of documents for
14 purposes of this subsection; and

15 “(ii) shall directly notify all employers
16 registered within the System of the prohi-
17 bition through appropriate means.

18 “(H) AUTHORITY TO ALLOW USE OF CER-
19 TAIN DOCUMENTS.—If the Secretary has deter-
20 mined that another document or class of docu-
21 ments, such as a document issued by a federally
22 recognized Indian tribe, may be used to reliably
23 establish identity or employment authorized sta-
24 tus, the Secretary—

1 “(i) may allow the use of that docu-
2 ment or class of documents for purposes of
3 this subsection after publication in the
4 Federal Register and an opportunity for
5 public comment;

6 “(ii) shall publish a description of any
7 such document or class of documents on
8 the U.S. Citizenship and Immigration
9 Services’ website; and

10 “(iii) shall directly notify all employ-
11 ers registered within the System of the
12 prohibition through appropriate means.

13 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-
14 MENT AUTHORIZATION.—An individual, upon com-
15 mencing employment with an employer, shall—

16 “(A) attest, under penalty of perjury, on
17 the form prescribed by the Secretary, that the
18 individual is—

19 “(i) a national of the United States;

20 “(ii) an alien lawfully admitted for
21 permanent residence;

22 “(iii) an alien who has employment
23 authorized status; or

24 “(iv) otherwise authorized by the Sec-
25 retary to be hired for such employment;

1 “(B) provide such attestation by a hand-
2 written, electronic, or digital pin code signature;
3 and

4 “(C) provide the individual’s social security
5 account number to the Secretary, unless the in-
6 dividual has not yet been issued such a number,
7 on such form as the Secretary may require.

8 “(3) RETENTION OF VERIFICATION RECORD.—

9 “(A) IN GENERAL.—After completing a
10 form for an individual in accordance with para-
11 graphs (1) and (2), the employer shall retain a
12 version of such completed form and make such
13 form available for inspection by the Secretary
14 or the Office of Special Counsel for Immigra-
15 tion-Related Unfair Employment Practices of
16 the Department of Justice during the period be-
17 ginning on the hiring date of the individual and
18 ending on the later of—

19 “(i) the date that is 3 years after such
20 hiring date; or

21 “(ii) the date that is 1 year after the
22 date on which the individual’s employment
23 with the employer is terminated.

24 “(B) REQUIREMENT FOR ELECTRONIC RE-
25 TENTION.—The Secretary—

1 “(i) shall permit an employer to retain
2 the form described in subparagraph (A) in
3 electronic form; and

4 “(ii) may permit an employer to re-
5 tain such form in paper, microfiche, micro-
6 film, or other media.

7 ~~“(4) COPYING OF DOCUMENTATION AND REC-~~
8 ~~ORDKEEPING.—The Secretary may promulgate regu-~~
9 ~~lations regarding—~~

10 ~~“(A) copying documents and related infor-~~
11 ~~mation pertaining to employment verification~~
12 ~~presented by an individual under this sub-~~
13 ~~section; and~~

14 ~~“(B) retaining such information during a~~
15 ~~period not to exceed the required retention pe-~~
16 ~~riod set forth in paragraph (3).~~

17 ~~“(5) PENALTIES.—An employer that fails to~~
18 ~~comply with any requirement under this subsection~~
19 ~~may be penalized under subsection (e)(4)(B).~~

20 ~~“(6) PROTECTION OF CIVIL RIGHTS.—~~

21 ~~“(A) IN GENERAL.—Nothing in this sec-~~
22 ~~tion may be construed to diminish any rights~~
23 ~~otherwise protected by Federal law.~~

24 ~~“(B) PROHIBITION ON DISCRIMINATION.—~~
25 ~~An employer shall use the procedures for docu-~~

1 ment verification set forth in this paragraph for
2 all employees without regard to race, color, reli-
3 gion, sex, national origin, or, unless specifically
4 permitted in this section, to citizenship status.

5 “(7) RECEIPTS.—The Secretary may authorize
6 the use of receipts for replacement documents, and
7 temporary evidence of employment authorization by
8 an individual to meet a documentation requirement
9 under this subsection on a temporary basis not to
10 exceed 1 year, after which time the individual shall
11 provide documentation sufficient to satisfy the docu-
12 mentation requirements under this subsection.

13 “(8) NO AUTHORIZATION OF NATIONAL IDENTIFI-
14 CATION CARDS.—Nothing in this section may be
15 construed to directly or indirectly authorize the
16 issuance, use, or establishment of a national identi-
17 fication card.

18 “(d) EMPLOYMENT VERIFICATION SYSTEM.—

19 “(1) IN GENERAL.—

20 “(A) ESTABLISHMENT.—The Secretary, in
21 consultation with the Commissioner, shall es-
22 tablish the Employment Verification System.

23 “(B) MONITORING.—The Secretary shall
24 create the necessary processes to monitor—

1 “(i) the functioning of the System, in-
2 cluding the volume of the workflow, the
3 speed of processing of queries, the speed
4 and accuracy of responses;

5 “(ii) the misuse of the System, includ-
6 ing the prevention of fraud or identity
7 theft;

8 “(iii) whether the use of the System
9 results in wrongful adverse actions or dis-
10 crimination based upon a prohibited factor
11 against nationals of the United States or
12 individuals who have employment author-
13 ized status; and

14 “(iv) the security, integrity, and pri-
15 vacy of the System.

16 “(C) PROCEDURES.—The Secretary—

17 “(i) shall create processes to provide
18 an individual with direct access to the indi-
19 vidual’s case history in the System, includ-
20 ing—

21 “(I) the identities of all persons
22 or entities that have queried the indi-
23 vidual through the System;

24 “(II) the date of each such
25 query; and

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1 “~~(III)~~ the System response for
2 each such query; and

3 “~~(ii)~~ in consultation with the Commis-
4 sioner, may develop—

5 “~~(I)~~ protocols to notify an indi-
6 vidual, in a timely manner through
7 the use of electronic correspondence
8 or mail, that a query for the indi-
9 vidual has been processed through the
10 System; or

11 “~~(II)~~ a process for the individual
12 to submit additional queries to the
13 System or notify the Secretary of po-
14 tential identity fraud.

15 “~~(2)~~ PARTICIPATION REQUIREMENTS.—

16 “~~(A)~~ FEDERAL GOVERNMENT.—Except as
17 provided in clause ~~(ii)~~, all agencies and depart-
18 ments in the executive, legislative, or judicial
19 branches of the Federal Government shall par-
20 ticipate in the System beginning on the earlier
21 of—

22 “~~(i)~~ the date of the enactment of the
23 Border Security, Economic Opportunity,
24 and Immigration Modernization Act, to the
25 extent required under section 402(c)(1) of

1 the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (division
3 C of Public Law 104-208; 8 U.S.C.
4 1324a) and as already implemented by
5 each agency or department; or

6 “(ii) the date that is 90 days after the
7 date of the enactment of the Border Security,
8 Economic Opportunity, and Immigration
9 Modernization Act.

10 “(B) FEDERAL CONTRACTORS.—Federal
11 contractors shall participate in the System as
12 provided in the final rule relating to employ-
13 ment eligibility verification published in the
14 Federal Register on November 14, 2008 (73
15 Fed. Reg. 67,651), or any similar subsequent
16 regulation, for which purpose references to E-
17 Verify in the final rule shall be construed to
18 apply to the System.

19 “(C) CRITICAL INFRASTRUCTURE.—

20 “(i) IN GENERAL.—Beginning on the
21 date that is 1 year after the date on which
22 regulations are published implementing
23 this subsection, the Secretary may author-
24 ize or direct any employer, person, or enti-
25 ty responsible for granting access to, pro-

1 tecting, securing, operating, administering,
2 or regulating part of the critical infrastruc-
3 ture (as defined in section 1016(e) of the
4 Critical Infrastructure Protection Act of
5 2001 (42 U.S.C. 5195e(e))) to participate
6 in the System to the extent the Secretary
7 determines that such participation will as-
8 sist in the protection of the critical infra-
9 structure.

10 “(ii) NOTIFICATION TO EMPLOY-
11 ERS.—The Secretary shall notify an em-
12 ployer required to participate in the Sys-
13 tem under this subparagraph not later
14 than 90 days before the date on which the
15 employer is required to participate.

16 “(D) EMPLOYERS WITH MORE THAN 5,000
17 EMPLOYEES.—Not later than 2 years after reg-
18 ulations are published implementing this sub-
19 section, all employers with more than 5,000 em-
20 ployees shall participate in the System with re-
21 spect to all newly hired employees and employ-
22 ees with expiring temporary employment au-
23 thorization documents.

24 “(E) EMPLOYERS WITH MORE THAN 500
25 EMPLOYEES.—Not later than 3 years after reg-

1 ulations are published implementing this sub-
2 section, all employers with more than 500 em-
3 ployees shall participate in the System with re-
4 spect to all newly hired employees and employ-
5 ees with expiring temporary employment au-
6 thorization documents.

7 “(F) AGRICULTURAL LABOR OR SERV-
8 ICES.—With respect to an employee performing
9 agricultural labor or services (as defined for
10 purposes of section 101(a)(15)(H)(ii)(a)), this
11 paragraph shall not apply with respect to the
12 verification of the employee until the date that
13 is 4 years after the date of the enactment of the
14 Legal Workforce Act. An employee described in
15 this clause shall not be counted for purposes of
16 subparagraph (D) or (E).

17 “(G) ALL EMPLOYERS.—Except as pro-
18 vided in subparagraph (I), not later than 4
19 years after regulations are published imple-
20 menting this subsection, all employers shall par-
21 ticipate in the System with respect to all newly
22 hired employees and employees with expiring
23 temporary employment authorization docu-
24 ments.

1 “(H) TRIBAL GOVERNMENT EMPLOY-
2 ERS.—

3 “(i) RULEMAKING.—In developing
4 regulations to implement this subsection,
5 the Secretary shall—

6 “(I) consider the effects of this
7 section on federally recognized Indian
8 tribes and tribal members; and

9 “(II) consult with the govern-
10 ments of federally recognized Indian
11 tribes.

12 “(ii) REQUIRED PARTICIPATION.—Not
13 later than 5 years after regulations are
14 published implementing this subsection, all
15 employers owned by, or entities of, the gov-
16 ernment of a federally recognized Indian
17 tribe shall participate in the System with
18 respect to all newly hired employees with
19 expiring temporary employment authoriza-
20 tion documents.

21 “(I) IMMIGRATION LAW VIOLATORS.—

22 “(i) ORDERS FINDING VIOLATIONS.—
23 An order finding any employer to have vio-
24 lated this section or section 274C may, in
25 the Secretary’s discretion, require the em-

1 employer to participate in the System with re-
2 spect to newly hired employees and em-
3 ployees with expiring temporary employ-
4 ment authorization documents, if such em-
5 ployer is not otherwise required to partici-
6 pate in the System under this section. The
7 Secretary shall monitor such employer's
8 compliance with System procedures.

9 “(ii) ~~PATTERN OR PRACTICE OF VIO-~~
10 ~~LATIONS.~~—The Secretary may require an
11 employer that is required to participate in
12 the System with respect to newly hired em-
13 ployees to participate in the System with
14 respect to the employer's current employ-
15 ees if the employer is determined by the
16 Secretary or other appropriate authority to
17 have engaged in a pattern or practice of
18 violations of the immigration laws of the
19 United States.

20 “(J) ~~VOLUNTARY PARTICIPATION.~~—The
21 Secretary may permit any employer that is not
22 required to participate in the System under this
23 section to do so on a voluntary basis.

24 “(3) ~~CONSEQUENCE OF FAILURE TO PARTICI-~~
25 ~~PATE.~~—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the failure, other than a de
3 minimis or inadvertent failure, of an employer
4 that is required to participate in the System to
5 comply with the requirements of the System
6 with respect to an individual—

7 “(i) shall be treated as a violation of
8 subsection (a)(1)(B) with respect to that
9 individual; and

10 “(ii) creates a rebuttable presumption
11 that the employer has violated paragraph
12 (1)(A) or (2) of subsection (a).

13 “(B) EXCEPTION.—

14 “(i) IN GENERAL.—Subparagraph (A)
15 shall not apply in a criminal prosecution.

16 “(ii) USE AS EVIDENCE.—Nothing in
17 this paragraph may be construed to limit
18 the use in the prosecution of a Federal
19 crime, in a manner otherwise consistent
20 with Federal criminal law and procedure,
21 of evidence relating to the employer’s fail-
22 ure to comply with requirements of the
23 System.

24 “(4) PROCEDURES FOR PARTICIPANTS IN THE
25 SYSTEM.—

1 “(A) IN GENERAL.—An employer partici-
2 pating in the System shall register such partici-
3 pation with the Secretary and, when hiring any
4 individual for employment in the United States,
5 shall comply with the following:

6 “(i) REGISTRATION OF EMPLOYERS.—

7 The Secretary, through notice in the Fed-
8 eral Register, shall prescribe procedures
9 that employers shall be required to follow
10 to register with the System.

11 “(ii) UPDATING INFORMATION.—The

12 employer is responsible for providing notice
13 of any change to the information required
14 under subclauses (I), (II), and (III) of
15 clause (v) before conducting any further
16 inquiries within the System, or on such
17 other schedule as the Secretary may pre-
18 scribe.

19 “(iii) TRAINING.—The Secretary shall

20 require employers to undergo such training
21 as the Secretary determines to be nec-
22 essary to ensure proper use, protection of
23 civil rights and civil liberties, privacy, in-
24 tegrity, and security of the System. To the
25 extent practicable, such training shall be

1 made available electronically on the U.S.
2 Citizenship and Immigration Services'
3 website.

4 “(iv) NOTIFICATION TO EMPLOY-
5 EES.—The employer shall inform individ-
6 uals hired for employment that the Sys-
7 tem—

8 “(I) will be used by the employer;

9 “(II) may be used for immigra-
10 tion enforcement purposes; and

11 “(III) may not be used to dis-
12 criminate or to take adverse action
13 against a national of the United
14 States or an alien who has employ-
15 ment authorized status.

16 “(v) PROVISION OF ADDITIONAL IN-
17 FORMATION.—The employer shall obtain
18 from the individual (and the individual
19 shall provide) and shall record in such
20 manner as the Secretary may specify—

21 “(I) the individual’s social secu-
22 rity account number;

23 “(II) if the individual does not
24 attest to United States citizenship or
25 noncitizen nationality under sub-

1 section (c)(2), such identification or
2 authorization number established by
3 the Department as the Secretary shall
4 specify; and

5 “(III) such other information as
6 the Secretary may require to deter-
7 mine the identity and employment au-
8 thorization of an individual.

9 “(vi) PRESENTATION OF DOCUMENTA-
10 TION.—The employer, and the individual
11 whose identity and employment authorized
12 status are being confirmed, shall fulfill the
13 requirements under subsection (c).

14 “(B) SEEKING CONFIRMATION.—

15 “(i) IN GENERAL.—An employer shall
16 use the System to confirm the identity and
17 employment authorized status of any indi-
18 vidual during—

19 “(I) the period beginning on the
20 date on which the individual accepts
21 an offer of employment and ending 3
22 business days after the date on which
23 employment begins; or

24 “(II) such other reasonable pe-
25 riod as the Secretary may prescribe.

1 “(ii) LIMITATION.—An employer may
2 not make the starting date of an individ-
3 ual’s employment or training or any other
4 term and condition of employment depend-
5 ent on the receipt of a confirmation of
6 identity and employment authorized status
7 by the System.

8 “(iii) REVERIFICATION.—If an indi-
9 vidual has a limited period of employment
10 authorized status, the individual’s em-
11 ployer shall reverify such status through
12 the System not later than 3 business days
13 after the last day of such period.

14 “(iv) OTHER EMPLOYMENT.—For em-
15 ployers directed by the Secretary to par-
16 ticipate in the System under paragraph
17 (2)(C)(i) to protect critical infrastructure
18 or otherwise specified circumstances in this
19 section to verify their entire workforce, the
20 System may be used for initial verification
21 of an individual who was hired before the
22 employer became subject to the System,
23 and the employer shall initiate all required
24 procedures on or before such date as the
25 Secretary shall specify.

1 “(v) NOTIFICATION.—

2 “(I) IN GENERAL.—The Sec-
3 retary shall provide, and the employer
4 shall utilize, as part of the System, a
5 method of notifying employers of a
6 confirmation or nonconfirmation of an
7 individual’s identity and employment
8 authorized status, or a notice that
9 further action is required to verify
10 such identity or employment eligibility
11 (referred to in this subsection as a
12 ‘further action notice’).

13 “(II) PROCEDURES.—The Sec-
14 retary shall establish procedures—

15 “(aa) to directly notify the
16 individual and the employer of a
17 confirmation, nonconfirmation, or
18 further action notice; and

19 “(bb) to provide information
20 about filing an administrative ap-
21 peal under paragraph (6) and a
22 hearing before an administrative
23 law judge under paragraph (7).

24 “(III) IMPLEMENTATION.—The
25 Secretary may provide for a phased-in

1 implementation of the notification re-
2 quirements under this clause, as ap-
3 propriate. The notification system
4 shall cover all inquiries not later than
5 1 year from the date of the enactment
6 of the Border Security, Economic Op-
7 portunity, and Immigration Mod-
8 ernization Act.

9 “(C) CONFIRMATION OR NONCONFIRMA-
10 TION.—

11 “(i) INITIAL RESPONSE.—

12 “(I) IN GENERAL.—Except as
13 provided in subclause (II), the System
14 shall provide—

15 “(aa) a confirmation of an
16 individual’s identity and employ-
17 ment authorized status or a fur-
18 ther action notice at the time of
19 the inquiry; and

20 “(bb) an appropriate code
21 indicating such confirmation or
22 such further action notice.

23 “(II) ALTERNATIVE DEAD-
24 LINE.—If the System is unable to
25 provide immediate confirmation or

1 further action notice for technological
2 reasons or due to unforeseen cir-
3 cumstances, the System shall provide
4 a confirmation or further action notice
5 not later than 3 business days after
6 the initial inquiry.

7 “(ii) CONFIRMATION UPON INITIAL
8 INQUIRY.—If the employer receives an ap-
9 propriate confirmation of an individual’s
10 identity and employment authorized status
11 under the System, the employer shall
12 record the confirmation in such manner as
13 the Secretary may specify.

14 “(iii) FURTHER ACTION NOTICE AND
15 LATER CONFIRMATION OR NONCONFIRMA-
16 TION.—

17 “(I) NOTIFICATION AND AC-
18 KNOWLEDGMENT THAT FURTHER AC-
19 TION IS REQUIRED.—Not later than 3
20 business days after an employer re-
21 ceives a further action notice of an in-
22 dividual’s identity or employment eli-
23 gibility under the System, or during
24 such other reasonable time as the Sec-
25 retary may prescribe, the employer

1 shall notify the individual for whom
2 the confirmation is sought of the fur-
3 ther action notice and any procedures
4 specified by the Secretary for address-
5 ing such notice. The further action
6 notice shall be given to the individual
7 in writing and the employer shall ac-
8 knowledge in the System under pen-
9 alty of perjury that it provided the
10 employee with the further action no-
11 tice. The individual shall affirmatively
12 acknowledge in writing, or in such
13 other manner as the Secretary may
14 specify, the receipt of the further ac-
15 tion notice from the employer. If the
16 individual refuses to acknowledge the
17 receipt of the further action notice, or
18 acknowledges in writing that the indi-
19 vidual will not contest the further ac-
20 tion notice under subclause (H), the
21 employer shall notify the Secretary in
22 such manner as the Secretary may
23 specify.

24 “(H) CONTEST.—Not later than
25 10 business days after receiving noti-

1 fication of a further action notice
2 under subelause (I), the individual
3 shall contact the appropriate Federal
4 agency and, if the Secretary so re-
5 quires, appear in person for purposes
6 of verifying the individual's identity
7 and employment eligibility. The Sec-
8 retary, in consultation with the Com-
9 missioner and other appropriate Fed-
10 eral agencies, shall specify an avail-
11 able secondary verification procedure
12 to confirm the validity of information
13 provided and to provide a confirma-
14 tion or nonconfirmation. Any proce-
15 dures for reexamination shall not limit
16 in any way an employee's right to ap-
17 peal a nonconfirmation.

18 “(III) NO CONTEST.—If the indi-
19 vidual refuses to acknowledge receipt
20 of the further action notice, acknowl-
21 edges that the individual will not con-
22 test the further action notice as pro-
23 vided in subelause (I), or does not
24 contact the appropriate Federal agen-
25 cy within the period specified in sub-

1 clause (II), following expiration of the
2 period specified in subclause (II), a
3 nonconfirmation shall be issued. The
4 employer shall record the noncon-
5 firmation in such manner as the Sec-
6 retary may specify and terminate the
7 individual's employment. An individ-
8 ual's failure to contest a further ac-
9 tion notice shall not be considered an
10 admission of guilt with respect to any
11 violation of this section or any provi-
12 sion of law.

13 “(IV) CONFIRMATION OR NON-
14 CONFIRMATION.—Unless the period is
15 extended in accordance with this sub-
16 clause, the System shall provide a
17 confirmation or nonconfirmation not
18 later than 10 business days after the
19 date on which the individual contests
20 the further action notice under sub-
21 clause (II). If the Secretary deter-
22 mines that good cause exists, after
23 taking into account adverse impacts
24 to the employer, and including time to
25 permit the individual to obtain and

1 provide needed evidence of identity or
2 employment eligibility, the Secretary
3 shall extend the period for providing
4 confirmation or nonconfirmation for
5 stated periods beyond 10 business
6 days. When confirmation or noncon-
7 firmation is provided, the confirma-
8 tion system shall provide an appro-
9 priate code indicating such confirma-
10 tion or nonconfirmation.

11 “(V) REEXAMINATION.—Nothing
12 in this section shall prevent the Sec-
13 retary from establishing procedures to
14 reexamine a case where a confirma-
15 tion or nonconfirmation has been pro-
16 vided if subsequently received infor-
17 mation indicates that the confirmation
18 or nonconfirmation may not have been
19 correct. Any procedures for reexam-
20 ination shall not limit in any way an
21 employee’s right to appeal a noncon-
22 firmation.

23 “(VI) EMPLOYEE PROTEC-
24 TIONS.—An employer may not termi-
25 nate employment or take any other

1 adverse action against an individual
2 solely because of a failure of the indi-
3 vidual to have identity and employ-
4 ment eligibility confirmed under this
5 subsection until—

6 “(aa) a nonconfirmation has
7 been issued;

8 “(bb) if the further action
9 notice was contested, the period
10 to timely file an administrative
11 appeal has expired without an
12 appeal; or

13 “(cc) if an administrative
14 appeal has been filed, the non-
15 confirmation has been upheld.

16 “(iv) NOTICE OF NONCONFIRMA-
17 TION.—Not later than 3 business days
18 after an employer receives a nonconfirma-
19 tion, or during such other reasonable time
20 as the Secretary may provide, the employer
21 shall notify the individual who is the sub-
22 ject of the nonconfirmation, and provide
23 information about filing an administrative
24 appeal pursuant to paragraph (6) and re-
25 quest for a hearing before an administra-

1 tive law judge pursuant to paragraph (7).
2 The nonconfirmation notice shall be given
3 to the individual in writing and the em-
4 ployer shall acknowledge in the System
5 under penalty of perjury that it provided
6 the notice (or adequately attempted to pro-
7 vide notice, but was unable to do so despite
8 reasonable efforts). The individual shall af-
9 firmatively acknowledge in writing, or in
10 such other manner as the Secretary may
11 prescribe, the receipt of the nonconfirma-
12 tion notice from the employer. If the indi-
13 vidual refuses or fails to acknowledge the
14 receipt of the nonconfirmation notice, the
15 employer shall notify the Secretary in such
16 manner as the Secretary may prescribe.

17 “(D) CONSEQUENCES OF NONCONFIRMA-
18 TION.—

19 “(i) TERMINATION OF CONTINUED
20 EMPLOYMENT.—Except as provided in
21 clause (iii), an employer that has received
22 a nonconfirmation regarding an individual
23 and has made reasonable efforts to notify
24 the individual in accordance with subpara-
25 graph (C)(iv) shall terminate the employ-

1 ment of the individual upon the expiration
2 of the time period specified in paragraph
3 (6)(A) for filing an administrative appeal
4 and paragraph (7)(A) for requesting a
5 hearing before an administrative law judge.

6 “(ii) CONTINUED EMPLOYMENT
7 AFTER NONCONFIRMATION.—If the em-
8 ployer continues to employ an individual
9 after receiving nonconfirmation and ex-
10 haustion of all appeals or expiration of all
11 rights to appeal if not appealed, in viola-
12 tion of clause (i), a rebuttable presumption
13 is created that the employer has violated
14 paragraphs (1)(A) and (2) of subsection
15 (a). Such presumption shall not apply in
16 any prosecution under subsection (k)(1).

17 “(iii) EFFECT OF ADMINISTRATIVE
18 APPEAL OR REVIEW BY ADMINISTRATIVE
19 LAW JUDGE.—If an individual files an ad-
20 ministrative appeal of the nonconfirmation
21 within the time period specified in para-
22 graph (6)(A), or review by an administra-
23 tive law judge specified in paragraph
24 (7)(A), the employer shall not terminate
25 the individual’s employment under this

1 subparagraph prior to the resolution of the
2 administrative appeal unless the Secretary
3 or Commissioner terminates the stay under
4 paragraph (6)(B) or (7)(B).

5 “(E) OBLIGATION TO RESPOND TO QUE-
6 RIES AND ADDITIONAL INFORMATION.—

7 “(i) IN GENERAL.—Employers shall
8 comply with requests for information from
9 the Secretary and the Special Counsel for
10 Immigration-Related Unfair Employment
11 Practices of the Department of Justice, in-
12 cluding queries concerning current and
13 former employees, within the time frame
14 during which records are required to be
15 maintained under this section regarding
16 such former employees, if such information
17 relates to the functioning of the System,
18 the accuracy of the responses provided by
19 the System, or any suspected misuse, dis-
20 crimination, fraud, or identity theft in the
21 use of the System. Failure to comply with
22 a request under this clause constitutes a
23 violation of subsection (a)(1)(B).

24 “(ii) ACTION BY INDIVIDUALS.—

1 “(I) IN GENERAL.—Individuals
2 being verified through the System
3 may be required to take further action
4 to address questions identified by the
5 Secretary or the Commissioner re-
6 garding the documents relied upon for
7 purposes of subsection (c).

8 “(II) NOTIFICATION.—Not later
9 than 3 business days after the receipt
10 of such questions regarding an indi-
11 vidual, or during such other reason-
12 able time as the Secretary may pre-
13 scribe, the employer shall—

14 “(aa) notify the individual of
15 any such requirement for further
16 actions; and

17 “(bb) shall record the date
18 and manner of such notification.

19 “(III) ACKNOWLEDGMENT.—The
20 individual shall acknowledge the noti-
21 fication received from the employer
22 under subclause (II) in writing, or in
23 such other manner as the Secretary
24 may prescribe.

25 “(iii) RULEMAKING.—

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1 “(I) IN GENERAL.—The Sec-
2 retary, in consultation with the Com-
3 missioner, is authorized to issue regu-
4 lations implementing, clarifying, and
5 supplementing the requirements under
6 this subparagraph—

7 “(aa) to facilitate the func-
8 tioning, accuracy, and fairness of
9 the System; or

10 “(bb) to prevent misuse, dis-
11 crimination, fraud, or identity
12 theft in the use of the System.

13 “(II) NOTICE.—The regulations
14 issued under subclause (I)—

15 “(aa) shall be published in
16 the Federal Register; and

17 “(bb) provide directly to all
18 employers registered in the Sys-
19 tem.

20 “(F) DESIGNATED AGENTS.—The Sec-
21 retary shall establish a process—

22 “(i) for certifying, on an annual basis
23 or at such times as the Secretary may pre-
24 scribe, designated agents and other System
25 service providers seeking access to the Sys-

1 tem to perform verification queries on be-
2 half of employers, based upon training,
3 usage, privacy, and security standards pre-
4 scribed by the Secretary, and

5 “(ii) for ensuring that designated
6 agents and other System service providers
7 are subject to monitoring to the same ex-
8 tent as direct access users.

9 “(G) REQUIREMENT TO PROVIDE INFOR-
10 MATION.—

11 “(i) IN GENERAL.—No later than 3
12 months after the date of the enactment of
13 the Border Security, Economic Oppor-
14 tunity, and Immigration Modernization
15 Act, the Secretary, in consultation with the
16 Secretary of Labor, the Secretary of Agri-
17 culture, the Commissioner, the Attorney
18 General, the Equal Employment Oppor-
19 tunity Commission, and the Administrator
20 of the Small Business Administration,
21 shall commence a campaign to disseminate
22 information respecting the procedures,
23 rights, and remedies prescribed under this
24 section.

1 “(ii) CAMPAIGN REQUIREMENTS.—

2 The campaign authorized under clause

3 (i)—

4 “(I) shall be aimed at increasing

5 the knowledge of employers, employ-

6 ees, and the general public concerning

7 employer and employee rights, respon-

8 sibilities, and remedies under this sec-

9 tion; and

10 “(II) shall be coordinated with

11 the public education campaign con-

12 ducted by U.S. Citizenship and Immi-

13 gration Services.

14 “(iii) ASSESSMENT.—The Secretary

15 shall assess the success of the campaign in

16 achieving the goals of the campaign.

17 “(iv) AUTHORITY TO CONTRACT.—In

18 order to carry out and assess the campaign

19 under this subparagraph, the Secretary

20 may, to the extent deemed appropriate and

21 subject to the availability of appropria-

22 tions, contract with public and private or-

23 ganizations for outreach and assessment

24 activities under the campaign.

1 “(v) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated to carry out this paragraph
4 \$40,000,000 for each of the fiscal years
5 2014 through 2016.

6 “(H) AUTHORITY TO MODIFY INFORMA-
7 TION REQUIREMENTS.—Based on a regular re-
8 view of the System and the document
9 verification procedures to identify misuse or
10 fraudulent use and to assess the security of the
11 documents and processes used to establish iden-
12 tity or employment authorized status, the Sec-
13 retary, in consultation with the Commissioner,
14 after publication of notice in the Federal Reg-
15 ister and an opportunity for public comment,
16 may modify, if the Secretary determines that
17 the modification is necessary to ensure that the
18 System accurately and reliably determines the
19 identity and employment authorized status of
20 employees and maintain existing protections
21 against misuse, discrimination, fraud, and iden-
22 tity theft—

23 “(i) the information that shall be pre-
24 sented to the employer by a worker indi-
25 vidual;

1 “(ii) the information that shall be pro-
2 vided to the System by the employer; and

3 “(iii) the procedures that shall be fol-
4 lowed by employers with respect to the
5 process of verifying an individual through
6 the System.

7 “(I) SELF-VERIFICATION.—Subject to ap-
8 propriate safeguards to prevent misuse of the
9 system, the Secretary, in consultation with the
10 Commissioner, shall establish a secure self-
11 verification procedure to permit an individual
12 who seeks to verify the individual’s own employ-
13 ment eligibility to contact the appropriate agen-
14 cy and, in a timely manner, correct or update
15 the information contained in the System.

16 “(5) PROTECTION FROM LIABILITY FOR AC-
17 TIONS TAKEN ON THE BASIS OF INFORMATION PRO-
18 VIDED BY THE SYSTEM.—An employer shall not be
19 liable to a job applicant, an employee, the Federal
20 Government, or a State or local government, under
21 Federal, State, or local criminal or civil law for any
22 employment-related action taken with respect to a
23 job applicant or employee in good-faith reliance on
24 information provided by the System.

25 “(6) ADMINISTRATIVE APPEAL.—

1 “(A) IN GENERAL.—An individual who is
2 notified of a nonconfirmation may, not later
3 than 10 business days after the date that such
4 notice is received, file an administrative appeal
5 of such nonconfirmation with the Commissioner
6 if the notice is based on records maintained by
7 the Commissioner, or in any other case, with
8 the Secretary. An individual who did not timely
9 contest a further action notice timely received
10 by that individual for which the individual ac-
11 knowledged receipt may not be granted a review
12 under this paragraph.

13 “(B) ADMINISTRATIVE STAY OF NONCON-
14 FIRMATION.—The nonconfirmation shall be
15 automatically stayed upon the timely filing of
16 an administrative appeal, unless the noncon-
17 firmation resulted after the individual acknowl-
18 edged receipt of the further action notice but
19 failed to contact the appropriate agency within
20 the time provided. The stay shall remain in ef-
21 fect until the resolution of the appeal, unless
22 the Secretary or the Commissioner terminates
23 the stay based on a determination that the ad-
24 ministrative appeal is frivolous or filed for pur-
25 poses of delay.

1 “(C) REVIEW FOR ERROR.—The Secretary
2 and the Commissioner shall develop procedures
3 for resolving administrative appeals regarding
4 nonconfirmations based upon the information
5 that the individual has provided, including any
6 additional evidence or argument that was not
7 previously considered. Any such additional evi-
8 dence or argument shall be filed within 10 busi-
9 ness days of the date the appeal was originally
10 filed. Appeals shall be resolved within 20 busi-
11 ness days after the individual has submitted all
12 evidence and arguments the individual wishes to
13 submit, or has stated in writing that there is no
14 additional evidence that the individual wishes to
15 submit. The Secretary and the Commissioner
16 may, on a case by case basis for good cause, ex-
17 tend the filing and submission period in order
18 to ensure accurate resolution of an appeal be-
19 fore the Secretary or the Commissioner.

20 “(D) PREPONDERANCE OF EVIDENCE.—
21 Administrative appeal under this paragraph
22 shall be limited to whether a nonconfirmation
23 notice is supported by a preponderance of the
24 evidence.

1 “(E) DAMAGES, FEES, AND COSTS.—No
2 money damages, fees or costs may be awarded
3 in the administrative appeal process under this
4 paragraph.

5 “(7) REVIEW BY ADMINISTRATIVE LAW
6 JUDGE.—

7 “(A) IN GENERAL.—Not later than 30
8 days after the date an individual receives a final
9 determination on an administrative appeal
10 under paragraph (6), the individual may obtain
11 review of such determination by filing a com-
12 plaint with an administrative law judge in ac-
13 cordance with this paragraph.

14 “(B) STAY OF NONCONFIRMATION.—The
15 nonconfirmation related to such final deter-
16 mination shall be automatically stayed upon the
17 timely filing of a complaint under this para-
18 graph, and the stay shall remain in effect until
19 the resolution of the complaint, unless the ad-
20 ministrative law judge determines that the ac-
21 tion is frivolous or filed for purposes of delay.

22 “(C) SERVICE.—The respondent to com-
23 plaint filed under this paragraph is either the
24 Secretary or the Commissioner, but not both,
25 depending upon who issued the administrative

1 order under paragraph (6). In addition to serv-
2 ing the respondent, the plaintiff shall serve the
3 Attorney General.

4 “(D) AUTHORITY OF ADMINISTRATIVE
5 LAW JUDGE.—

6 “(i) RULES OF PRACTICE.—The Sec-
7 retary shall promulgate regulations regard-
8 ing the rules of practice in appeals brought
9 pursuant to this subsection.

10 “(ii) AUTHORITY OF ADMINISTRATIVE
11 LAW JUDGE.—The administrative law
12 judge shall have power to—

13 “(I) terminate a stay of a non-
14 confirmation under subparagraph (B)
15 if the administrative law judge deter-
16 mines that the action is frivolous or
17 filed for purposes of delay;

18 “(II) adduce evidence at a hear-
19 ing;

20 “(III) compel by subpoena the
21 attendance of witnesses and the pro-
22 duction of evidence at any designated
23 place or hearing;

24 “(IV) resolve claims of identity
25 theft; and

1 “(V) enter, upon the pleadings
2 and any evidence adduced at a hear-
3 ing, a decision affirming or reversing
4 the result of the agency, with or with-
5 out remanding the cause for a rehear-
6 ing.

7 “(iii) SUBPOENA.—In case of contu-
8 macy or refusal to obey a subpoena law-
9 fully issued under this section and upon
10 application of the administrative law judge,
11 an appropriate district court of the United
12 States may issue an order requiring com-
13 pliance with such subpoena and any failure
14 to obey such order may be punished by
15 such court as a contempt of such court.

16 “(iv) TRAINING.—An administrative
17 law judge hearing cases shall have special
18 training respecting employment authorized
19 status verification.

20 “(E) ORDER BY ADMINISTRATIVE LAW
21 JUDGE.—

22 “(i) IN GENERAL.—The administra-
23 tive law judge shall issue and cause to be
24 served to the parties in the proceeding an

1 order which may be appealed as provided
2 in subparagraph (G).

3 “(ii) CONTENTS OF ORDER.—Such an
4 order shall uphold or reverse the final de-
5 termination on the request for reconsider-
6 ation and order lost wages and other ap-
7 propriate remedies as provided in subpara-
8 graph (F).

9 “(F) COMPENSATION FOR ERROR.—

10 “(i) IN GENERAL.—In cases in which
11 the administrative law judge reverses the
12 final determination of the Secretary or the
13 Commissioner made under paragraph (6),
14 and the administrative law judge finds
15 that—

16 “(I) the nonconfirmation was due
17 to gross negligence or intentional mis-
18 conduct of the employer; the adminis-
19 trative law judge may order the em-
20 ployer to pay the individual lost
21 wages; and reasonable costs and attor-
22 neys’ fees incurred during administra-
23 tive and judicial review; or

24 “(II) such final determination
25 was erroneous by reason of the neg-

1 ligence of the Secretary or the Com-
2 missioner, the administrative law
3 judge may order the Secretary or the
4 Commissioner to pay the individual
5 lost wages, and reasonable costs and
6 attorneys' fees incurred during admin-
7 istrative and judicial review.

8 “(ii) CALCULATION OF LOST
9 WAGES.—Lost wages shall be calculated
10 based on the wage rate and work schedule
11 that prevailed prior to termination. The in-
12 dividual shall be compensated for wages
13 lost beginning on the first scheduled work
14 day after employment was terminated and
15 ending 120 days after completion of the
16 administrative law judge’s review described
17 in this paragraph or the day after the indi-
18 vidual is reinstated or obtains employment
19 elsewhere, whichever occurs first. If the in-
20 dividual obtains employment elsewhere at a
21 lower wage rate, the individual shall be
22 compensated for the difference in wages
23 for the period ending 120 days after com-
24 pletion of the administrative law judge re-
25 view process. No lost wages shall be award-

1 ed for any period of time during which the
2 individual was not in employment author-
3 ized status.

4 “(iii) PAYMENT OF COMPENSATION.—

5 Notwithstanding any other law, payment of
6 compensation for lost wages, costs, and at-
7 torneys’ fees under this paragraph, or com-
8 promise settlements of the same, shall be
9 made as provided by section 1304 of title
10 31, United States Code. Appropriations
11 made available to the Secretary or the
12 Commissioner, accounts provided for under
13 section 286, and funds from the Federal
14 Old-Age and Survivors Insurance Trust
15 Fund or the Federal Disability Insurance
16 Trust Fund shall not be available to pay
17 such compensation.

18 “(G) APPEAL.—No later than 45 days

19 after the entry of such final order, any person
20 adversely affected by such final order may seek
21 review of such order in the United States Court
22 of Appeals for the circuit in which the violation
23 is alleged to have occurred or in which the em-
24 ployer resides or transacts business.

25 “(8) MANAGEMENT OF THE SYSTEM.—

1 “(A) IN GENERAL.—The Secretary is au-
2 thorized to establish, manage, and modify the
3 System, which shall—

4 “(i) respond to inquiries made by par-
5 ticipating employers at any time through
6 the internet, or such other means as the
7 Secretary may designate, concerning an in-
8 dividual’s identity and whether the indi-
9 vidual is in employment authorized status;

10 “(ii) maintain records of the inquiries
11 that were made, of confirmations provided
12 (or not provided), and of the codes pro-
13 vided to employers as evidence of their
14 compliance with their obligations under the
15 System; and

16 “(iii) provide information to, and re-
17 quire action by, employers and individuals
18 using the System.

19 “(B) DESIGN AND OPERATION OF SYS-
20 TEM.—The System shall be designed and oper-
21 ated—

22 “(i) to maximize its reliability and
23 ease of use by employers consistent with
24 protecting the privacy and security of the

1 underlying information, and ensuring full
2 notice of such use to employees;

3 “(ii) to maximize its ease of use by
4 employees, including direct notification of
5 its use, of results, and ability to challenge
6 results;

7 “(iii) to respond accurately to all in-
8 quires made by employers on whether in-
9 dividuals are authorized to be employed
10 and to register any times when the system
11 is unable to receive inquiries;

12 “(iv) to maintain appropriate adminis-
13 trative, technical, and physical safeguards
14 to prevent unauthorized disclosure of per-
15 sonal information, misuse by employers
16 and employees, and discrimination;

17 “(v) to require regularly scheduled re-
18 fresher training of all users of the System
19 to ensure compliance with all procedures;

20 “(vi) to allow for auditing of the use
21 of the System to detect misuse, discrimina-
22 tion, fraud, and identity theft, and to pre-
23 serve the integrity and security of the in-
24 formation in all of the System, including—

1 “(I) to develop and use tools and
2 processes to detect or prevent fraud
3 and identity theft, such as multiple
4 uses of the same identifying informa-
5 tion or documents to fraudulently gain
6 employment;

7 “(II) to develop and use tools
8 and processes to detect and prevent
9 misuse of the system by employers
10 and employees;

11 “(III) to develop tools and proe-
12 esses to detect anomalies in the use of
13 the system that may indicate potential
14 fraud or misuse of the system;

15 “(IV) to audit documents and in-
16 formation submitted by employees to
17 employers, including authority to con-
18 duct interviews with employers and
19 employees, and obtain information
20 concerning employment from the em-
21 ployer;

22 “(vii) to confirm identity and employ-
23 ment authorization through verification
24 and comparison of records as determined
25 necessary by the Secretary;

1 ~~“(viii) to confirm electronically the~~
2 ~~issuance of the employment authorization~~
3 ~~or identity document and—~~

4 ~~“(I) if such photograph is avail-~~
5 ~~able, to display the digital photograph~~
6 ~~that the issuer placed on the docu-~~
7 ~~ment so that the employer can com-~~
8 ~~pare the photograph displayed to the~~
9 ~~photograph on the document pre-~~
10 ~~sented by the employee; or~~

11 ~~“(II) if a photograph is not avail-~~
12 ~~able from the issuer, to confirm the~~
13 ~~authenticity of the document using~~
14 ~~such alternative procedures as the~~
15 ~~Secretary may specify; and~~

16 ~~“(ix) to provide appropriate notifica-~~
17 ~~tion directly to employers registered with~~
18 ~~the System of all changes made by the~~
19 ~~Secretary or the Commissioner related to~~
20 ~~allowed and prohibited documents, and use~~
21 ~~of the System.~~

22 ~~“(C) SAFEGUARDS TO THE SYSTEM.—~~

23 ~~“(i) REQUIREMENT TO DEVELOP.—~~
24 ~~The Secretary, in consultation with the~~
25 ~~Commissioner and other appropriate Fed-~~

1 eral and State agencies, shall develop poli-
2 cies and procedures to ensure protection of
3 the privacy and security of personally iden-
4 tifiable information and identifiers con-
5 tained in the records accessed or main-
6 tained by the System. The Secretary, in
7 consultation with the Commissioner and
8 other appropriate Federal and State agen-
9 cies, shall develop and deploy appropriate
10 privacy and security training for the Fed-
11 eral and State employees accessing the
12 records under the System.

13 “(ii) **PRIVACY AUDITS.**—The Sec-
14 retary, acting through the Chief Privacy
15 Officer of the Department, shall conduct
16 regular privacy audits of the policies and
17 procedures established under clause (i), in-
18 cluding any collection, use, dissemination,
19 and maintenance of personally identifiable
20 information and any associated informa-
21 tion technology systems, as well as scope of
22 requests for this information. The Chief
23 Privacy Officer shall review the results of
24 the audits and recommend to the Secretary

1 any changes necessary to improve the pri-
2 vacy protections of the program.

3 “(iii) RECORDS SECURITY PRO-
4 GRAM.—Any person, including a private
5 third party vendor, who retains document
6 verification or System data pursuant to
7 this section shall implement an effective
8 records security program that—

9 “(I) ensures that only authorized
10 personnel have access to document
11 verification or System data; and

12 “(II) ensures that whenever such
13 data is created, completed, updated,
14 modified, altered, or corrected in elec-
15 tronic format, a secure and perma-
16 nent record is created that establishes
17 the date of access, the identity of the
18 individual who accessed the electronic
19 record, and the particular action
20 taken.

21 “(iv) RECORDS SECURITY PRO-
22 GRAM.—In addition to the security meas-
23 ures described in clause (iii), a private
24 third party vendor who retains document
25 verification or System data pursuant to

1 this section shall implement an effective
2 records security program that—

3 “(I) provides for backup and re-
4 covery of any records maintained in
5 electronic format to protect against
6 information loss, such as power inter-
7 ruptions; and

8 “(II) ensures that employees are
9 trained to minimize the risk of unau-
10 thorized or accidental alteration or
11 erasure of such data in electronic for-
12 mat.

13 “(v) AUTHORIZED PERSONNEL DE-
14 FINED.—In this subparagraph, the term
15 ‘authorized personnel’ means anyone reg-
16 istered as a System user, or anyone with
17 partial or full responsibility for completion
18 of employment authorization verification or
19 retention of data in connection with em-
20 ployment authorization verification on be-
21 half of an employer.

22 “(D) RESPONSIBILITIES OF THE SEC-
23 RETARY.—

24 “(i) IN GENERAL.—As part of the
25 System, the Secretary shall maintain a re-

1 liable, secure method, which, operating
2 through the System and within the time
3 periods specified, compares the name, alien
4 identification or authorization number, or
5 other information as determined relevant
6 by the Secretary, provided in an inquiry
7 against such information maintained or
8 accessed by the Secretary in order to con-
9 firm (or not confirm) the validity of the in-
10 formation provided, the correspondence of
11 the name and number, whether the alien
12 has employment authorized status (or, to
13 the extent that the Secretary determines to
14 be feasible and appropriate, whether the
15 records available to the Secretary verify
16 the identity or status of a national of the
17 United States); and such other information
18 as the Secretary may prescribe.

19 “(ii) PHOTOGRAPH DISPLAY.—As part
20 of the System, the Secretary shall establish
21 a reliable, secure method, which, operating
22 through the System, displays the digital
23 photograph described in subparagraph
24 (B)(viii)(I).

1 “(iii) TIMING OF NOTICES.—The Sec-
2 retary shall have authority to prescribe
3 when a confirmation, nonconfirmation, or
4 further action notice shall be issued.

5 “(iv) USE OF INFORMATION.—The
6 Secretary shall perform regular audits
7 under the System, as described in subpara-
8 graph (B)(vi) and shall utilize the informa-
9 tion obtained from such audits, as well as
10 any information obtained from the Com-
11 missioner pursuant to part E of title XI of
12 the Social Security Act (42 U.S.C. 1301 et
13 seq.); for the purposes of this section and
14 to administer and enforce the immigration
15 laws.

16 “(v) AVAILABLE FACILITIES AND AL-
17 TERNATIVE ACCOMMODATIONS.—The Sec-
18 retary shall make appropriate arrange-
19 ments and develop standards to allow em-
20 ployers or employees, including remote
21 hires, who are otherwise unable to access
22 the System to use electronic and telephonic
23 formats (including video conferencing,
24 scanning technology, and other available
25 technologies); Federal Government facili-

1 ties, public facilities, or other available lo-
2 cations in order to utilize the System.

3 “(vi) IDENTITY FRAUD PROTEC-
4 TION.—To prevent identity fraud, not later
5 than 18 months after the date of the en-
6 actment of the Border Security, Economic
7 Opportunity, and Immigration Moderniza-
8 tion Act, the Secretary shall—

9 “(I) in consultation with the
10 Commissioner, establish a program to
11 provide a reliable, secure method for
12 an individual to temporarily suspend
13 or limit the use of the individual’s so-
14 cial security account number or other
15 identifying information for verification
16 by the System; and

17 “(II) for each individual being
18 verified through the System—

19 “(aa) notify the individual
20 that the individual has the option
21 to limit the use of the individ-
22 ual’s social security account num-
23 ber or other identifying informa-
24 tion for verification by the Sys-
25 tem; and

1 “(bb) provide instructions to
2 the individuals for exercising the
3 option referred to in item (aa).

4 “(vii) PROTECTION FROM MULTIPLE
5 USE.—The Secretary and the Commis-
6 sioner shall establish a procedure for iden-
7 tifying and handling a situation in which a
8 social security account number has been
9 identified to be subject to unusual multiple
10 use in the System or is otherwise suspected
11 or determined to have been compromised
12 by identity fraud.

13 “(viii) MONITORING AND COMPLIANCE
14 UNIT.—The Secretary shall establish or
15 designate a monitoring and compliance
16 unit to detect and reduce identity fraud
17 and other misuse of the System.

18 “(ix) CIVIL RIGHTS AND CIVIL LIB-
19 ERTIES ASSESSMENTS.—

20 “(I) REQUIREMENT TO CON-
21 DUCT.—The Secretary shall conduct
22 regular civil rights and civil liberties
23 assessments of the System, including
24 participation by employers, other pri-

1 vate entities, and Federal, State, and
2 local government entities.

3 ~~“(H) REQUIREMENT TO RE-~~
4 ~~SPOND.—Employers, other private en-~~
5 ~~tities, and Federal, State, and local~~
6 ~~entities shall timely respond to any re-~~
7 ~~quest in connection with such an as-~~
8 ~~essment.~~

9 ~~“(III) ASSESSMENT AND REC-~~
10 ~~COMMENDATIONS.—The Officer for~~
11 ~~Civil Rights and Civil Liberties of the~~
12 ~~Department shall review the results of~~
13 ~~each such assessment and recommend~~
14 ~~to the Secretary any changes nec-~~
15 ~~essary to improve the civil rights and~~
16 ~~civil liberties protections of the Sys-~~
17 ~~tem.~~

18 ~~“(E) GRANTS TO STATES.—~~

19 ~~“(i) IN GENERAL.—The Secretary~~
20 ~~shall create and administer a grant pro-~~
21 ~~gram to help provide funding for States~~
22 ~~that grant—~~

23 ~~“(I) the Secretary access to driv-~~
24 ~~er’s license information as needed to~~
25 ~~confirm that a driver’s license pre-~~

1 sented under subsection (c)(1)(C)(i)
2 confirms the identity of the subject of
3 the System check, and that a driver's
4 license matches the State's records;
5 and

6 “(H) such assistance as the Sec-
7 retary may request in order to resolve
8 further action notices or nonconfirma-
9 tions relating to such information.

10 “(ii) CONSTRUCTION WITH THE DRIV-
11 ER'S PRIVACY PROTECTION ACT OF 1994.—
12 The provision of a photograph to the Sec-
13 retary as described in clause (i) may not be
14 construed as a violation of section 2721 of
15 title 18, United States Code, and is a per-
16 missible use under subsection (b)(1) of
17 that section.

18 “(iii) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There is authorized to be appro-
20 priated to the Secretary \$250,000,000 to
21 carry out this subparagraph.

22 “(F) RESPONSIBILITIES OF THE SEC-
23 RETARY OF STATE.—As part of the System, the
24 Secretary of State shall provide to the Sec-
25 retary access to passport and visa information

1 as needed to confirm that a passport, passport
2 card, or visa presented under subsection
3 (c)(1)(B) confirms the identity of the subject of
4 the System check, and that a passport, passport
5 card, or visa photograph matches the Secretary
6 of State's records, and shall provide such assist-
7 ance as the Secretary may request in order to
8 resolve further action notices or nonconfirma-
9 tions relating to such information.

10 “(G) UPDATING INFORMATION.—The
11 Commissioner, the Secretary, and the Secretary
12 of State shall update their information in a
13 manner that promotes maximum accuracy and
14 shall provide a process for the prompt correc-
15 tion of erroneous information.

16 “(9) LIMITATION ON USE OF THE SYSTEM.—
17 Notwithstanding any other provision of law, nothing
18 in this subsection may be construed to permit or
19 allow any department, bureau, or other agency of
20 the United States Government or any other entity to
21 utilize any information, database, or other records
22 assembled under this subsection for any purpose
23 other than for employment verification or to ensure
24 secure, appropriate and nondiscriminatory use of the
25 System.

1 “(10) ANNUAL REPORT AND CERTIFICATION.—

2 Not later than 18 months after the promulgation of
3 regulations to implement this subsection, and annu-
4 ally thereafter, the Secretary shall submit to Con-
5 gress a report that includes the following:

6 “(A) An assessment of the accuracy rates
7 of further action notices and other System no-
8 tices provided by employers to individuals who
9 are authorized to be employed in the United
10 States.

11 “(B) An assessment of the accuracy rates
12 of further action notices and other System no-
13 tices provided directly (by the System) in a
14 timely fashion to individuals who are not au-
15 thorized to be employed in the United States.

16 “(C) An assessment of any challenges
17 faced by small employers in utilizing the Sys-
18 tem.

19 “(D) An assessment of the rate of em-
20 ployer noncompliance (in addition to failure to
21 provide required notices in a timely fashion) in
22 each of the following categories:

23 “(i) Taking adverse action based on a
24 further action notice.

1 “(ii) Use of the System for non-
2 employees or other individuals before they
3 are offered employment.

4 “(iii) Use of the System to reverify
5 employment authorized status of current
6 employees except if authorized to do so.

7 “(iv) Use of the System selectively,
8 except in cases in which such use is au-
9 thorized.

10 “(v) Use of the System to deny em-
11 ployment or post-employment benefits or
12 otherwise interfere with labor rights.

13 “(vi) Requiring employees or appli-
14 cants to use any self-verification feature or
15 to provide self-verification results.

16 “(vii) Discouraging individuals who
17 receive a further action notice from chal-
18 lenging the further action notice or appeal-
19 ing a determination made by the System.

20 “(E) An assessment of the rate of em-
21 ployee noncompliance in each of the following
22 categories:

23 “(i) Obtaining employment when un-
24 authorized with an employer complying
25 with the System in good faith.

1 “(ii) Failure to provide required docu-
2 ments in a timely manner.

3 “(iii) Attempting to use fraudulent
4 documents or documents not related to the
5 individual.

6 “(iv) Misuse of the administrative ap-
7 peal and judicial review process.

8 “(F) An assessment of the amount of time
9 taken for—

10 “(i) the System to provide the con-
11 firmation or further action notice;

12 “(ii) individuals to contest further ac-
13 tion notices;

14 “(iii) the System to provide a con-
15 firmation or nonconfirmation of a con-
16 tested further action notice;

17 “(iv) individuals to file an administra-
18 tive appeal of a nonconfirmation; and

19 “(v) resolving administrative appeals
20 regarding nonconfirmations.

21 “(11) ANNUAL GAO STUDY AND REPORT.—

22 “(A) REQUIREMENT.—The Comptroller
23 General shall, for each year, undertake a study
24 to evaluate the accuracy, efficiency, integrity,
25 and impact of the System.

1 “(B) REPORT.—Not later than 18 months
2 after the promulgation of regulations to imple-
3 ment this subsection, and yearly thereafter, the
4 Comptroller General shall submit to Congress a
5 report containing the findings of the study ear-
6 ried out under this paragraph. Each such re-
7 port shall include, at a minimum, the following:

8 “(i) An assessment of System per-
9 formance with respect to the rate at which
10 individuals who are eligible for employment
11 in the United States are correctly approved
12 within the required periods, including a
13 separate assessment of such rate for na-
14 tionals and aliens.

15 “(ii) An assessment of the privacy and
16 confidentiality of the System and of the
17 overall security of the System with respect
18 to cybertheft and theft or misuse of private
19 data.

20 “(iii) An assessment of whether the
21 System is being implemented in a manner
22 that is not discriminatory or used for retal-
23 iation against employees.

24 “(iv) An assessment of the most com-
25 mon causes for the erroneous issuance of

1 nonconfirmations by the System and rec-
2 ommendations to correct such causes.

3 “(v) The recommendations of the
4 Comptroller General regarding System im-
5 provements.

6 “(vi) An assessment of the frequency
7 and magnitude of changes made to the
8 System and the impact on the ability for
9 employers to comply in good faith.

10 “(vii) An assessment of the direct and
11 indirect costs incurred by employers in
12 complying with the System, including costs
13 associated with retaining potential employ-
14 ees through the administrative appeals
15 process and receiving a nonconfirmation.

16 “(viii) An assessment of any backlogs
17 or delays in the System providing the con-
18 firmation or further action notice and im-
19 pacts to hiring by employers.

20 “(e) COMPLIANCE.—

21 “(1) COMPLAINTS AND INVESTIGATIONS.—The
22 Secretary shall establish procedures—

23 “(A) for individuals and entities to file
24 complaints respecting potential violations of
25 subsections (a) or (f)(1);

1 “(B) for the investigation of those com-
2 plaints which the Secretary deems appropriate
3 to investigate; and

4 “(C) for providing notification to the Spe-
5 cial Counsel for Immigration-Related Unfair
6 Employment Practices of the Department of
7 Justice of potential violations of section 274B.

8 “(2) AUTHORITY IN INVESTIGATIONS.—In con-
9 ducting investigations and proceedings under this
10 subsection—

11 “(A) immigration officers shall have rea-
12 sonable access to examine evidence of the em-
13 ployer being investigated;

14 “(B) immigration officers designated by
15 the Secretary, and administrative law judges
16 and other persons authorized to conduct pro-
17 ceedings under this section, may compel by sub-
18 poena the attendance of relevant witnesses and
19 the production of relevant evidence at any des-
20 ignated place in an investigation or case under
21 this subsection. In case of refusal to fully com-
22 ply with a subpoena lawfully issued under this
23 paragraph, the Secretary may request that the
24 Attorney General apply in an appropriate dis-
25 trict court of the United States for an order re-

1 quiring compliance with the subpoena, and any
2 failure to obey such order may be punished by
3 the court as contempt. Failure to cooperate
4 with the subpoena shall be subject to further
5 penalties, including but not limited to further
6 fines and the voiding of any mitigation of pen-
7 alties or termination of proceedings under para-
8 graph (4)(D); and

9 “(C) the Secretary, in cooperation with the
10 Commissioner and Attorney General, and in
11 consultation with other relevant agencies, shall
12 establish a Joint Employment Fraud Task
13 Force consisting of, at a minimum—

14 “(i) the System’s compliance per-
15 sonnel;

16 “(ii) immigration law enforcement of-
17 ficers;

18 “(iii) personnel of the Office of Spe-
19 cial Counsel for Immigration-Related Un-
20 fair Employment Practices of the Depart-
21 ment of Justice;

22 “(iv) personnel of the Office for Civil
23 Rights and Civil Liberties of the Depart-
24 ment; and

1 “(v) personnel of Office of Inspector
2 General of the Social Security Administra-
3 tion.

4 “~~(3)~~ COMPLIANCE PROCEDURES.—

5 “(A) PRE-PENALTY NOTICE.—If the Sec-
6 retary has reasonable cause to believe that
7 there has been a civil violation of this section,
8 the Secretary shall issue to the employer con-
9 cerned a written notice of the Department’s in-
10 tention to issue a claim for a monetary or other
11 penalty. Such pre-penalty notice shall:

12 “(i) describe the violation;

13 “(ii) specify the laws and regulations
14 allegedly violated;

15 “(iii) disclose the material facts which
16 establish the alleged violation;

17 “(iv) describe the penalty sought to be
18 imposed; and

19 “(v) inform such employer that such
20 employer shall have a reasonable oppor-
21 tunity to make representations as to why a
22 monetary or other penalty should not be
23 imposed.

24 “(B) EMPLOYER’S RESPONSE.—Whenever
25 any employer receives written pre-penalty notice

1 of a fine or other penalty in accordance with
2 subparagraph (A), the employer may, within 60
3 days from receipt of such notice, file with the
4 Secretary its written response to the notice.
5 The response may include any relevant evidence
6 or proffer of evidence that the employer wishes
7 to present with respect to whether the employer
8 violated this section and whether, if so, the pen-
9 alty should be mitigated, and shall be filed and
10 considered in accordance with procedures to be
11 established by the Secretary.

12 “(C) RIGHT TO A HEARING.—Before
13 issuance of an order imposing a penalty on any
14 employer, person, or entity, the employer, per-
15 son, or entity shall be entitled to a hearing be-
16 fore an administrative law judge, if requested
17 within 60 days of the notice of penalty. The
18 hearing shall be held at the nearest location
19 practicable to the place where the employer,
20 person, or entity resides or of the place where
21 the alleged violation occurred.

22 “(D) ISSUANCE OF ORDERS.—If no hear-
23 ing is so requested, the Secretary’s imposition
24 of the order shall constitute a final and
25 unappealable order. If a hearing is requested

1 and the administrative law judge determines,
2 upon clear and convincing evidence received,
3 that there was a violation, the administrative
4 law judge shall issue the final determination
5 with a written penalty claim. The penalty claim
6 shall specify all charges in the information pro-
7 vided under clauses (i) through (iii) of subpara-
8 graph (A) and any mitigation of the penalty
9 that the administrative law judge deems appro-
10 priate under paragraph (4)(D).

11 “(4) CIVIL PENALTIES.—

12 “(A) HIRING OR CONTINUING TO EMPLOY
13 UNAUTHORIZED ALIENS.—Any employer that
14 violates any provision of subsection (a)(1)(A) or
15 (a)(2) shall—

16 “(i) pay a civil penalty of not less
17 than \$3,500 and not more than \$7,500 for
18 each unauthorized alien with respect to
19 which each violation of either subsection
20 (a)(1)(A) or (a)(2) occurred;

21 “(ii) if the employer has previously
22 been fined as a result of a previous en-
23 forcement action or previous violation
24 under this paragraph, pay a civil penalty of
25 not less than \$5,000 and not more than

1 \$15,000 for each unauthorized alien with
2 respect to which a violation of either sub-
3 section (a)(1)(A) or (a)(2) occurred; and

4 “~~(iii)~~ if the employer has previously
5 been fined more than once under this para-
6 graph, pay a civil penalty of not less than
7 \$10,000 and not more than \$25,000 for
8 each unauthorized alien with respect to
9 which a violation of either subsection
10 (a)(1)(A) or (a)(2) occurred.

11 “~~(B)~~ ENHANCED PENALTIES.—After the
12 Secretary certifies to Congress that the System
13 has been established, implemented, and made
14 mandatory for use by all employers in the
15 United States, the Secretary may establish an
16 enhanced civil penalty for an employer who—

17 “~~(i)~~ fails to query the System to verify
18 the identify and work authorized status of
19 an individual; and

20 “~~(ii)~~ violates a Federal, State, or local
21 law related to—

22 “~~(I)~~ the payment of wages;

23 “~~(II)~~ hours worked by employees;

24 or

1 “(III) workplace health and safe-
2 ty.

3 “(C) RECORDKEEPING OR VERIFICATION
4 PRACTICES.—Any employer that violates or fails
5 to comply with any requirement under sub-
6 section (a)(1)(B), other than a minor or inad-
7 vertent failure, as determined by the Secretary,
8 shall pay a civil penalty of—

9 “(i) not less than \$500 and not more
10 than \$2,000 for each violation;

11 “(ii) if an employer has previously
12 been fined under this paragraph, not less
13 than \$1,000 and not more than \$4,000 for
14 each violation; and

15 “(iii) if an employer has previously
16 been fined more than once under this para-
17 graph, not less than \$2,000 and not more
18 than \$8,000 for each violation.

19 “(D) OTHER PENALTIES.—The Secretary
20 may impose additional penalties for violations,
21 including cease and desist orders, specially de-
22 signed compliance plans to prevent further vio-
23 lations, suspended fines to take effect in the
24 event of a further violation, and in appropriate
25 cases, the remedy provided by paragraph (f)(2).

1 “(E) MITIGATION.—The Secretary or, if
2 an employer requests a hearing, the administra-
3 tive law judge, is authorized, upon such terms
4 and conditions as the Secretary or administra-
5 tive law judge deems reasonable and just and in
6 accordance with such procedures as the Sec-
7 retary may establish or any procedures estab-
8 lished governing the administrative law judge’s
9 assessment of penalties, to reduce or mitigate
10 penalties imposed upon employers, based upon
11 factors including, the employer’s hiring volume,
12 compliance history, good-faith implementation
13 of a compliance program, the size and level of
14 sophistication of the employer, and voluntary
15 disclosure of violations of this subsection to the
16 Secretary. The Secretary or administrative law
17 judge shall not mitigate a penalty below the
18 minimum penalty provided by this section, ex-
19 cept that the Secretary may, in the case of an
20 employer subject to penalty for recordkeeping
21 or verification violations only who has not pre-
22 viously been penalized under this section, in the
23 Secretary’s or administrative law judge’s discre-
24 tion, mitigate the penalty below the statutory
25 minimum or remit it entirely. In any case where

1 a civil money penalty has been imposed on an
2 employer under section 274B for an action or
3 omission that is also a violation of this section,
4 the Secretary or administrative law judge shall
5 mitigate any civil money penalty under this sec-
6 tion by the amount of the penalty imposed
7 under section 274B.

8 “(F) EFFECTIVE DATE.—The civil money
9 penalty amounts and the enhanced penalties
10 provided by subparagraphs (A), (B), and (C) of
11 this paragraph and by subsection (f)(2) shall
12 apply to violations of this section committed on
13 or after the date that is 1 year after the date
14 of the enactment of the Border Security, Eco-
15 nomic Opportunity, and Immigration Mod-
16 ernization Act. For violations committed prior
17 to such date of enactment, the civil money pen-
18 alty amounts provided by regulations imple-
19 menting this section as in effect the day before
20 such date of enactment with respect to knowing
21 hiring or continuing employment, verification,
22 or indemnity bond violations, as appropriate,
23 shall apply.

24 “(5) ORDER OF INTERNAL REVIEW AND CER-
25 TIFICATION OF COMPLIANCE.—

1 “(A) EMPLOYER COMPLIANCE.—If the
2 Secretary has reasonable cause to believe that
3 an employer has failed to comply with this sec-
4 tion, the Secretary is authorized, at any time,
5 to require that the employer certify that it is in
6 compliance with this section, or has instituted a
7 program to come into compliance.

8 “(B) EMPLOYER CERTIFICATION.—

9 “(i) REQUIREMENT.—Except as pro-
10 vided in subparagraph (C), not later than
11 60 days after receiving a notice from the
12 Secretary requiring a certification under
13 subparagraph (A), an official with respon-
14 sibility for, and authority to bind the com-
15 pany on, all hiring and immigration com-
16 pliance notices shall certify under penalty
17 of perjury that the employer is in conform-
18 ance with the requirements of paragraphs
19 (1) through (4) of subsection (c), per-
20 taining to document verification require-
21 ments, and with subsection (d), pertaining
22 to the System (once the System is imple-
23 mented with respect to that employer ac-
24 cording to the requirements of subsection
25 (d)(1)), and with any additional require-

1 ments that the Secretary may promulgate
2 by regulation pursuant to subsection (e) or
3 (d) or that the employer has instituted a
4 program to come into compliance with
5 these requirements.

6 “(ii) APPLICATION.—Clause (i) shall
7 not apply until the date that the Secretary
8 certifies to Congress that the System has
9 been established, implemented, and made
10 mandatory for use by all employers in the
11 United States.

12 “(C) EXTENSION OF DEADLINE.—At the
13 request of the employer, the Secretary may ex-
14 tend the 60-day deadline for good cause.

15 “(D) STANDARDS OR METHODS.—The Sec-
16 retary is authorized to publish in the Federal
17 Register standards or methods for such certifi-
18 cation, require specific recordkeeping practices
19 with respect to such certifications, and audit
20 the records thereof at any time. This authority
21 shall not be construed to diminish or qualify
22 any other penalty provided by this section.

23 “(6) REQUIREMENTS FOR REVIEW OF A FINAL
24 DETERMINATION.—With respect to judicial review of

1 a final determination or penalty claim issued under
2 paragraph (3)(C), the following requirements apply:

3 “(A) DEADLINE.—The petition for review
4 must be filed no later than 30 days after the
5 date of the final determination or penalty claim
6 issued under paragraph (3)(C).

7 “(B) VENUE AND FORMS.—The petition
8 for review shall be filed with the court of ap-
9 peals for the judicial circuit where the employ-
10 er’s principal place of business was located
11 when the final determination or penalty claim
12 was made. The record and briefs do not have
13 to be printed. The court shall review the pro-
14 ceeding on a typewritten or electronically filed
15 record and briefs.

16 “(C) SERVICE.—The respondent is the
17 Secretary. In addition to serving the respond-
18 ent, the petitioner shall serve the Attorney Gen-
19 eral.

20 “(D) PETITIONER’S BRIEF.—The peti-
21 tioner shall serve and file a brief in connection
22 with a petition for judicial review not later than
23 40 days after the date on which the administra-
24 tive record is available, and may serve and file
25 a reply brief not later than 14 days after serv-

1 ice of the brief of the respondent, and the court
2 may not extend these deadlines, except for good
3 cause shown. If a petitioner fails to file a brief
4 within the time provided in this paragraph, the
5 court shall dismiss the appeal unless a manifest
6 injustice would result.

7 “(E) SCOPE AND STANDARD FOR RE-
8 VIEW.—The court of appeals shall conduct a de
9 novo review of the administrative record on
10 which the final determination was based and
11 any additional evidence that the Court finds
12 was previously unavailable at the time of the
13 administrative hearing.

14 “(F) EXHAUSTION OF ADMINISTRATIVE
15 REMEDIES.—A court may review a final deter-
16 mination under paragraph (3)(C) only if—

17 “(i) the petitioner has exhausted all
18 administrative remedies available to the pe-
19 titioner as of right, including any adminis-
20 trative remedies established by regulation,
21 and

22 “(ii) another court has not decided
23 the validity of the order, unless the review-
24 ing court finds that the petition presents
25 grounds that could not have been pre-

1 sented in the prior judicial proceeding or
2 that the remedy provided by the prior pro-
3 ceeding was inadequate or ineffective to
4 test the validity of the order.

5 “(G) ENFORCEMENT OF ORDERS.—If the
6 final determination issued against the employer
7 under this subsection is not subjected to review
8 as provided in this paragraph, the Attorney
9 General, upon request by the Secretary, may
10 bring a civil action to enforce compliance with
11 the final determination in any appropriate dis-
12 trict court of the United States. The court, on
13 a proper showing, shall issue a temporary re-
14 straining order or a preliminary or permanent
15 injunction requiring that the employer comply
16 with the final determination issued against that
17 employer under this subsection. In any such
18 civil action, the validity and appropriateness of
19 the final determination shall not be subject to
20 review

21 “(7) CREATION OF LIEN.—If any employer lia-
22 ble for a fee or penalty under this section neglects
23 or refuses to pay such liability after demand and
24 fails to file a petition for review (if applicable) as
25 provided in paragraph (6), the amount of the fee or

1 penalty shall be a lien in favor of the United States
2 on all property and rights to property, whether real
3 or personal, belonging to such employer. If a petition
4 for review is filed as provided in paragraph (6), the
5 lien shall arise upon the entry of a final judgment
6 by the court. The lien continues for 20 years or until
7 the liability is satisfied, remitted, set aside, or termi-
8 nated.

9 ~~“(8) FILING NOTICE OF LIEN.—~~

10 ~~“(A) PLACE FOR FILING.—~~The notice re-
11 ferred to in paragraph (7) shall be filed as de-
12 scribed in 1 of the following:

13 ~~“(i) UNDER STATE LAWS.—~~

14 ~~“(I) REAL PROPERTY.—~~In the
15 case of real property, in 1 office with-
16 in the State (or the county, or other
17 governmental subdivision), as des-
18 ignated by the laws of such State, in
19 which the property subject to the lien
20 is situated.

21 ~~“(II) PERSONAL PROPERTY.—~~In

22 the case of personal property, whether
23 tangible or intangible, in 1 office with-
24 in the State (or the county, or other
25 governmental subdivision), as des-

1 ignated by the laws of such State, in
2 which the property subject to the lien
3 is situated, except that State law
4 merely conforming to or reenacting
5 Federal law establishing a national fil-
6 ing system does not constitute a sec-
7 ond office for filing as designated by
8 the laws of such State.

9 “(ii) WITH CLERK OF DISTRICT
10 COURT.—In the office of the clerk of the
11 United States district court for the judicial
12 district in which the property subject to
13 the lien is situated, whenever the State has
14 not by law designated 1 office which meets
15 the requirements of clause (i).

16 “(iii) WITH RECORDER OF DEEDS OF
17 THE DISTRICT OF COLUMBIA.—In the of-
18 fice of the Recorder of Deeds of the Dis-
19 trict of Columbia, if the property subject to
20 the lien is situated in the District of Co-
21 lumbia.

22 “(B) SITUS OF PROPERTY SUBJECT TO
23 LIEN.—For purposes of subparagraph (A),
24 property shall be deemed to be situated as fol-
25 lows:

1 “(i) REAL PROPERTY.—In the case of
2 real property, at its physical location.

3 “(ii) PERSONAL PROPERTY.—In the
4 case of personal property, whether tangible
5 or intangible, at the residence of the tax-
6 payer at the time the notice of lien is filed.

7 “(C) DETERMINATION OR RESIDENCE.—
8 For purposes of subparagraph (A)(ii), the resi-
9 dence of a corporation or partnership shall be
10 deemed to be the place at which the principal
11 executive office of the business is located, and
12 the residence of a taxpayer whose residence is
13 outside the United States shall be deemed to be
14 in the District of Columbia.

15 “(D) EFFECT OF FILING NOTICE OF
16 LIEN.—

17 “(i) IN GENERAL.—Upon filing of a
18 notice of lien in the manner described in
19 this paragraph, the lien shall be valid
20 against any purchaser, holder of a security
21 interest, mechanic’s lien, or judgment lien
22 creditor, except with respect to properties
23 or transactions specified in subsection (b),
24 (c), or (d) of section 6323 of the Internal
25 Revenue Code of 1986 for which a notice

1 of tax lien properly filed on the same date
2 would not be valid.

3 “(ii) NOTICE OF LIEN.—The notice of
4 lien shall be considered a notice of lien for
5 taxes payable to the United States for the
6 purpose of any State or local law providing
7 for the filing of a notice of a tax lien. A
8 notice of lien that is registered, recorded,
9 docketed, or indexed in accordance with
10 the rules and requirements relating to
11 judgments of the courts of the State where
12 the notice of lien is registered, recorded,
13 docketed, or indexed shall be considered
14 for all purposes as the filing prescribed by
15 this section.

16 “(iii) OTHER PROVISIONS.—The pro-
17 visions of section 3201(e) of title 28,
18 United States Code, shall apply to liens
19 filed as prescribed by this paragraph.

20 “(E) ENFORCEMENT OF A LIEN.—A lien
21 obtained through this paragraph shall be con-
22 sidered a debt as defined by section 3002 of
23 title 28, United States Code and enforceable
24 pursuant to chapter 176 of such title.

1 “(9) ATTORNEY GENERAL ADJUDICATION.—

2 The Attorney General shall have jurisdiction to adju-
3 dicate administrative proceedings under this sub-
4 section. Such proceedings shall be conducted in ac-
5 cordance with requirements of section 554 of title 5,
6 United States Code.

7 “(f) CRIMINAL AND CIVIL PENALTIES AND INJUNC-
8 TIONS.—

9 “(1) PROHIBITION OF INDEMNITY BONDS.—It
10 is unlawful for an employer, in the hiring of any in-
11 dividual, to require the individual to post a bond or
12 security, to pay or agree to pay an amount, or other-
13 wise to provide a financial guarantee or indemnity,
14 against any potential liability arising under this sec-
15 tion relating to such hiring of the individual.

16 “(2) CIVIL PENALTY.—Any employer who is de-
17 termined, after notice and opportunity for mitigation
18 of the monetary penalty under subsection (e), to
19 have violated paragraph (1) shall be subject to a
20 civil penalty of \$10,000 for each violation and to an
21 administrative order requiring the return of any
22 amounts received in violation of such paragraph to
23 the employee or, if the employee cannot be located,
24 to the general fund of the Treasury.

25 “(g) GOVERNMENT CONTRACTS.—

1 “(1) CONTRACTORS AND RECIPIENTS.—When-
2 ever an employer who is a Federal contractor (mean-
3 ing an employer who holds a Federal contract,
4 grant, or cooperative agreement, or reasonably may
5 be expected to submit an offer for or be awarded a
6 government contract) is determined by the Secretary
7 to have violated of this section more than 3 occa-
8 sions or is convicted of a crime under this section,
9 the employer shall be considered for debarment from
10 the receipt of Federal contracts, grants, or coopera-
11 tive agreements in accordance with the procedures
12 and standards and for the periods prescribed by the
13 Federal Acquisition Regulation. However, any ad-
14 ministrative determination of liability for civil pen-
15 alty by the Secretary or the Attorney General shall
16 not be reviewable in any debarment proceeding.

17 “(2) INADVERTENT VIOLATIONS.—Inadvertent
18 violations of recordkeeping or verification require-
19 ments, in the absence of any other violations of this
20 section, shall not be a basis for determining that an
21 employer is a repeat violator for purposes of this
22 subsection.

23 “(3) OTHER REMEDIES AVAILABLE.—Nothing
24 in this subsection shall be construed to modify or
25 limit any remedy available to any agency or official

1 of the Federal Government for violation of any con-
2 tractual requirement to participate in the System, as
3 provided in the final rule relating to employment eli-
4 gibility verification published in the Federal Register
5 on November 14, 2008 (73 Fed. Reg. 67,651), or
6 any similar subsequent regulation.

7 “(h) PREEMPTION.—The provisions of this section
8 preempt any State or local law, ordinance, policy, or rule,
9 including any criminal or civil fine or penalty structure,
10 relating to the hiring, continued employment, or status
11 verification for employment eligibility purposes, of unau-
12 thorized aliens. A State, locality, municipality, or political
13 subdivision may exercise its authority over business licens-
14 ing and similar laws as a penalty for failure to use the
15 System.

16 “(i) DEPOSIT OF AMOUNTS RECEIVED.—Except as
17 otherwise specified, civil penalties collected under this sec-
18 tion shall be deposited by the Secretary into the Com-
19 prehensive Immigration Reform Trust Fund established
20 under section 6 of the Border Security, Economic Oppor-
21 tunity, and Immigration Modernization Act.

22 “(j) CHALLENGES TO VALIDITY OF THE SYSTEM.—

23 “(1) IN GENERAL.—Any right, benefit, or claim
24 not otherwise waived or limited pursuant to this sec-
25 tion is available in an action instituted in the United

1 States District Court for the District of Columbia;
2 but shall be limited to determinations of—

3 “(A) whether this section, or any regula-
4 tion issued to implement this section, violates
5 the Constitution of the United States; or

6 “(B) whether such a regulation issued by
7 or under the authority of the Secretary to im-
8 plement this section, is contrary to applicable
9 provisions of this section or was issued in viola-
10 tion of title 5, chapter 5, United States Code.

11 “(2) DEADLINES FOR BRINGING ACTIONS.—

12 Any action instituted under this subsection must be
13 filed no later than 180 days after the date the chal-
14 lenged section or regulation described in subpara-
15 graph (A) or (B) of paragraph (1) becomes effective.
16 No court shall have jurisdiction to review any chal-
17 lenge described in subparagraph (B) after the time
18 period specified in this subsection expires.

19 “(k) CRIMINAL PENALTIES AND INJUNCTIONS FOR
20 PATTERN OR PRACTICE VIOLATIONS.—

21 “(1) PATTERN AND PRACTICE.—Any employer
22 who engages in a pattern or practice of knowing vio-
23 lations of subsection (a)(1)(A) or (a)(2) shall be
24 fined under title 18, United States Code, no more
25 than \$10,000 for each unauthorized alien with re-

1 spect to whom such violation occurs, imprisoned for
2 not more than 2 years for the entire pattern or prac-
3 tice, or both.

4 “(2) TERM OF IMPRISONMENT.—The maximum
5 term of imprisonment of a person convicted of any
6 criminal offense under the United States Code shall
7 be increased by 5 years if the offense is committed
8 as part of a pattern or practice of violations of sub-
9 section (a)(1)(A) or (a)(2).

10 “(3) ENJOINING OF PATTERN OR PRACTICE
11 VIOLATIONS.—Whenever the Secretary or the Attor-
12 ney General has reasonable cause to believe that an
13 employer is engaged in a pattern or practice of em-
14 ployment in violation of subsection (a)(1)(A) or
15 (a)(2), the Attorney General may bring a civil action
16 in the appropriate district court of the United States
17 requesting such relief, including a permanent or
18 temporary injunction, restraining order, or other
19 order against the employer, as the Secretary or At-
20 torney General deems necessary.

21 “(1) CRIMINAL PENALTIES FOR UNLAWFUL AND
22 ABUSIVE EMPLOYMENT.—

23 “(1) IN GENERAL.—Any person who, during
24 any 12-month period, knowingly employs or hires,
25 employs, recruits, or refers for employment 10 or

1 more individuals within the United States who are
2 under the control and supervision of such person—

3 “(A) knowing that the individuals are un-
4 authorized aliens; and

5 “(B) under conditions that violate section
6 5(a) of the Occupational Safety and Health Act
7 of 1970 (29 U.S.C. 654(a) (relating to occupa-
8 tional safety and health), section 6 or 7 of the
9 Fair Labor Standards Act of 1938 (29 U.S.C.
10 206 and 207) (relating to minimum wages and
11 maximum hours of employment), section 3142
12 of title 40, United States Code, (relating to re-
13 quired wages on construction contracts), or sec-
14 tions 6703 or 6704 of title 41, United States
15 Code, (relating to required wages on service
16 contracts)

17 shall be fined under title 18, United States Code, or
18 imprisoned for not more than 10 years, or both.

19 “(2) ATTEMPT AND CONSPIRACY.—Any person
20 who attempts or conspires to commit any offense
21 under this section shall be punished in the same
22 manner as a person who completes the offense.”

23 (b) REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL
24 INDUSTRY.—Not later than 18 months after
25 the date of the enactment of this Act, the Secretary shall

1 submit to Congress a report that assesses implementation
2 of the Employment Verification System established under
3 section 274A(d) of the Immigration and Nationality Act,
4 as amended by subsection (a), in the agricultural industry,
5 including the use of such System technology in agriculture
6 industry hiring processes; user, contractor, and third-
7 party employer agent employment practices; timing and
8 logistics regarding employment verification and
9 reverification processes to meet agriculture industry prac-
10 tices; and identification of potential challenges and modi-
11 fications to meet the unique needs of the agriculture in-
12 dustry. Such report shall review—

13 (1) the modality of access, training and out-
14 reach, customer support, processes for further action
15 notices and secondary verifications for short-term
16 workers; monitoring; and compliance procedures for
17 such System;

18 (2) the interaction of such System with the
19 process to admit nonimmigrant workers pursuant to
20 section 218 or 218A of the Immigration and Nation-
21 ality Act (8 U.S.C. 1188 et seq.) and with enforce-
22 ment of the immigration laws; and

23 (3) the collaborative use of processes of other
24 Federal and State agencies that intersect with the
25 agriculture industry.

1 (c) ~~REPORT ON IMPACT OF THE SYSTEM ON EM-~~
2 ~~PLOYERS.—~~Not later than 18 months after the date of
3 the enactment of this Act, the Secretary shall submit to
4 Congress a report that assesses—

5 (1) the implementation of the Employment
6 Verification System established under section
7 274A(d) of the Immigration and Nationality Act, as
8 amended by subsection (a), by employers;

9 (2) any adverse impact on the revenues, busi-
10 ness processes, or profitability of employers required
11 to use such System; and

12 (3) the economic impact of such System on
13 small businesses.

14 (d) ~~GOVERNMENT ACCOUNTABILITY OFFICE STUDY~~
15 ~~OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EM-~~
16 ~~PLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—~~

17 (1) ~~STUDY.—~~The Comptroller General of the
18 United States shall carry out a study of the effects
19 of the documentary requirements of section 274A of
20 the Immigration and Nationality Act, as amended by
21 subsection (a), on employers, nationals of the United
22 States and individuals with employment authorized
23 status, and challenges such employers, nationals or
24 individuals may face in obtaining the documentation
25 required by that section.

1 (2) REPORT.—Not later than 4 years after the
2 enactment of this Act, the Comptroller General shall
3 submit to Congress a report containing the findings
4 of the study carried out under paragraph (1). Such
5 report shall include, at a minimum, the following:

6 (A) An assessment of available information
7 regarding the number of working age nationals
8 of the United States and individuals who have
9 employment authorized status who lack docu-
10 ments required for employment by such section
11 274A.

12 (B) A description of the additional steps
13 required for individuals who have employment
14 authorized status and do not possess the docu-
15 ments required by such section 274A to obtain
16 such documents.

17 (C) A general assessment of the average fi-
18 nancial costs for individuals who have employ-
19 ment authorized status who do not possess the
20 documents required by such section 274A to ob-
21 tain such documents.

22 (D) A general assessment of the average
23 financial costs and challenged for employers
24 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.—Any employer
21 who was participating in the E-Verify Program de-
22 scribed in section 403 of the Illegal Immigration Re-
23 form and Immigrant Responsibility Act of 1996 (di-
24 vision C of Public Law 104–208; 8 U.S.C. 1324a
25 note), as in effect on the minute before the date of

1 the enactment of this Act, shall participate in the
2 System described in subsection (d) of section 274A
3 of the Immigration and Nationality Act, as amended
4 by subsection (a) to the same extent and in the same
5 manner that the employer participated in such E-
6 Verify Program.

7 (3) CONSTRUCTION.—The repeal made by para-
8 graph (1) may not be construed to limit the author-
9 ity of the Secretary to allow or continue to allow the
10 participation in such System of employers who have
11 participated in such E-Verify Program, as in effect
12 on the day before the date of the enactment of this
13 Act.

14 (f) CONFORMING AMENDMENT.—Paragraph (3) of
15 section 274(a) (8 U.S.C. 1324(a)) is repealed.

16 **SEC. 3102. INCREASING SECURITY AND INTEGRITY OF SO-**
17 **CIAL SECURITY CARDS.**

18 (a) FRAUD-RESISTANT, TAMPER-RESISTANT, WEAR-
19 RESISTANT, AND IDENTITY THEFT-RESISTANT SOCIAL
20 SECURITY CARDS.—

21 (1) ISSUANCE.—

22 (A) PRELIMINARY WORK.—Not later than
23 180 days after the date of the enactment of this
24 title, the Commissioner of Social Security shall
25 begin work to administer and issue fraud-resist-

1 ant, tamper-resistant, wear-resistant, and iden-
2 tity theft-resistant social security cards.

3 (B) COMPLETION.—Not later than 5 years
4 after the date of enactment of this title, the
5 Commissioner of Social Security shall issue only
6 social security cards determined to be fraud-re-
7 sistant, tamper-resistant, wear-resistant, and
8 identity theft-resistant social security cards.

9 (2) AMENDMENT.—Section 205(c)(2)(G) of the
10 Social Security Act (42 U.S.C. 405(c)(2)(G)) is
11 amended by striking the second sentence and insert-
12 ing the following: “The social security card shall be
13 fraud-resistant, tamper-resistant, wear-resistant, and
14 identity theft-resistant.”.

15 (3) APPROPRIATION.—Out of any money in the
16 Treasury of the United States not otherwise appro-
17 priated, there is appropriated to the Commissioner
18 of Social Security an additional amount for “Limita-
19 tion on Administrative Expenses” for the purpose of
20 carrying out the amendments made by this sub-
21 section, \$1,000,000,000 for fiscal year 2014, to re-
22 main available until expended.

23 (4) EMERGENCY DESIGNATION FOR CONGRES-
24 SIONAL ENFORCEMENT.—In the Senate, amounts
25 made available under this subsection are designated

1 as an emergency requirement pursuant to section
2 403(a) of S. Con. Res. 13 (111th Congress), the
3 concurrent resolution on the budget for fiscal year
4 2010.

5 (5) EMERGENCY DESIGNATION FOR STATUTORY
6 PAYGO.—Amounts made available under this sub-
7 section are designated as an emergency requirement
8 under section 4(g) of the Statutory Pay-As-You-Go
9 Act of 2010 (Public Law 111–139; 2 U.S.C.
10 933(g)).

11 (b) MULTIPLE CARDS.—Section 205(e)(2)(G) of the
12 Social Security Act (42 U.S.C. 405(e)(2)(G)), as amended
13 by subsection (a)(2), is amended—

14 (1) by inserting “(i)” after “(G)”; and

15 (2) by adding at the end the following:

16 “(ii) The Commissioner of Social Security shall re-
17 strict the issuance of multiple replacement social security
18 cards to any individual to 3 per year and 10 for the life
19 of the individual, except that the Commissioner may allow
20 for reasonable exceptions from the limits under this clause
21 on a case-by-case basis in compelling circumstances.”.

22 (c) CRIMINAL PENALTIES.—

23 (1) SOCIAL SECURITY FRAUD.—

1 (A) IN GENERAL.—Chapter 47 of title 18,
2 United States Code, is amended by inserting at
3 the end the following:

4 **“§ 1041. Social security fraud.**

5 “Any person who—

6 “~~(1)~~ knowingly possesses or uses a social secu-
7 rity account number or social security card knowing
8 that the number or card was obtained from the
9 Commissioner of Social Security by means of fraud
10 or false statement;

11 “~~(2)~~ knowingly and falsely represents a number
12 to be the social security account number assigned by
13 the Commissioner of Social Security to him or her
14 or to another person, when such number is known
15 not to be the social security account number as-
16 signed by the Commissioner of Social Security to
17 him or her or to such other person;

18 “~~(3)~~ knowingly, and without lawful authority,
19 buys, sells, or possesses with intent to buy or sell a
20 social security account number or a social security
21 card that is or purports to be a number or card
22 issued by the Commissioner of Social Security;

23 “~~(4)~~ knowingly alters, counterfeits, forges, or
24 falsely makes a social security account number or a
25 social security card;

1 “~~(5)~~ knowingly uses, distributes, or transfers a
 2 social security account number or a social security
 3 card knowing the number or card to be intentionally
 4 altered, counterfeited, forged, falsely made, or sto-
 5 len; or

6 “~~(6)~~ without lawful authority, knowingly pro-
 7 duces or acquires for any person a social security ac-
 8 count number, a social security card, or a number
 9 or card that purports to be a social security account
 10 number or social security card,

11 shall be fined under this title, imprisoned not more than
 12 5 years, or both.”.

13 ~~(B)~~ TABLE OF SECTIONS AMENDMENT.—

14 The table of sections for chapter 47 of title 18,
 15 United States Code, is amended by adding after
 16 the item relating to section 1040 the following:

“Sec. 1041. Social security fraud.”.

17 ~~(2)~~ INFORMATION DISCLOSURE.—

18 ~~(A)~~ IN GENERAL.—Notwithstanding any
 19 other provision of law and subject to subpara-
 20 graph ~~(B)~~, the Commissioner of Social Security
 21 shall disclose for the purpose of investigating a
 22 violation of section 1041 of title 18, United
 23 States Code, or section 274A, section 274B, or
 24 section 274C of the Immigration and Nation-
 25 ality Act (~~8~~ U.S.C. 1324a, 1324b, 1324e), pro-

1 vided that such request is in writing and from
2 an officer in a supervisory position or higher of-
3 ficial, the following records of the Social Secu-
4 rity Administration to any Federal law enforce-
5 ment agency that requests such records:

6 (i) Records concerning the identity,
7 address, location, or financial institution
8 accounts of the holder of a social security
9 account number or social security card.

10 (ii) Records concerning the applica-
11 tion for and issuance of a social security
12 account number or social security card.

13 (iii) Records concerning the existence
14 or nonexistence of a social security account
15 number or social security card.

16 (B) LIMITATION.—The Commissioner of
17 Social Security shall not disclose any tax return
18 or tax return information pursuant to subpara-
19 graph (A) except as authorized by section 6103
20 of the Internal Revenue Code of 1986.

21 **SEC. 3103. INCREASING SECURITY AND INTEGRITY OF IM-**
22 **MIGRATION DOCUMENTS.**

23 Not later than 1 year after the date of the enactment
24 of this Act, the Secretary shall submit a report to Con-
25 gress on the feasibility, advantages, and disadvantages of

1 including, in addition to a photograph, other biometric in-
2 formation on each employment authorization document
3 issued by the Department.

4 **SEC. 3104. RESPONSIBILITIES OF THE SOCIAL SECURITY**
5 **ADMINISTRATION.**

6 Title XI of the Social Security Act (42 U.S.C. 1301
7 et seq.) is amended by adding at the end the following
8 new part:

9 “PART E—EMPLOYMENT VERIFICATION
10 “RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL
11 SECURITY

12 “SEC. 1186. (a) CONFIRMATION OF EMPLOYMENT
13 VERIFICATION DATA.—As part of the employment
14 verification system established by the Secretary of Home-
15 land Security under the provisions of section 274A of the
16 Immigration and Nationality Act (8 U.S.C. 1324a) (in
17 this section referred to as the ‘System’), the Commissioner
18 of Social Security shall, subject to the provisions of section
19 274A(d) of the Immigration and Nationality Act (8 U.S.C.
20 1324a(d)), establish a reliable, secure method that, oper-
21 ating through the System and within the time periods
22 specified in section 274A(d) of such Act—

23 “(1) compares the name, date of birth, social
24 security account number, and available citizenship
25 information provided in an inquiry against such in-

1 formation maintained by the Commissioner in order
2 to confirm (or not confirm) the validity of the infor-
3 mation provided regarding an individual whose iden-
4 tity and employment eligibility must be confirmed;

5 “(2) determines the correspondence of the
6 name, date of birth, and number;

7 “(3) determines whether the name and number
8 belong to an individual who is deceased according to
9 the records maintained by the Commissioner;

10 “(4) determines whether an individual is a na-
11 tional of the United States, as defined in section
12 101(a)(22) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(22)); and

14 “(5) determines whether the individual has pre-
15 sented a social security account number that is not
16 valid for employment.

17 “(b) PROHIBITION.—The System shall not disclose or
18 release social security information to employers through
19 the confirmation system (other than such confirmation or
20 nonconfirmation, information provided by the employer to
21 the System, or the reason for the issuance of a further
22 action notice).”.

1 **SEC. 3105. IMPROVED PROHIBITION ON DISCRIMINATION**
2 **BASED ON NATIONAL ORIGIN OR CITIZEN-**
3 **SHIP STATUS.**

4 (a) IN GENERAL.—Section 274B(a) (8 U.S.C.
5 1324b) is amended to read as follows:

6 “(a) PROHIBITION ON DISCRIMINATION BASED ON
7 NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

8 “(1) PROHIBITION ON DISCRIMINATION GEN-
9 ERALLY.—It is an unfair immigration-related em-
10 ployment practice for a person, other entity, or em-
11 ployment agency, to discriminate against any indi-
12 vidual (other than an unauthorized alien defined in
13 section 274A(b)) because of such individual’s na-
14 tional origin or citizenship status, with respect to the
15 following:

16 “(A) The hiring of the individual for em-
17 ployment.

18 “(B) The verification of the individual’s
19 eligibility to work in the United States.

20 “(C) The discharging of the individual
21 from employment.

22 “(2) EXCEPTIONS.—Paragraph (1) shall not
23 apply to the following:

24 “(A) A person, other entity, or employer
25 that employs 5 or fewer employees, except for
26 an employment agency.

1 “(B) A person’s or entity’s discrimination
2 because of an individual’s national origin if the
3 discrimination with respect to that employer,
4 person, or entity and that individual is covered
5 under section 703 of the Civil Rights Act of
6 1964 (42 U.S.C. 2000e-2), unless the discrimi-
7 nation is related to an individual’s verification
8 of employment authorization.

9 “(C) Discrimination because of citizenship
10 status which—

11 “(i) is otherwise required in order to
12 comply with a provision of Federal, State,
13 or local law related to law enforcement;

14 “(ii) is required by Federal Govern-
15 ment contract; or

16 “(iii) the Secretary or Attorney Gen-
17 eral determines to be essential for an em-
18 ployer to do business with an agency or de-
19 partment of the Federal Government or a
20 State, local, or tribal government.

21 “(3) ADDITIONAL EXCEPTION PROVIDING
22 RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—
23 Notwithstanding any other provision of this section,
24 it is not an unfair immigration-related employment
25 practice for an employer (as defined in section

1 274A(b)) to prefer to hire, recruit, or refer an indi-
2 vidual who is a citizen or national of the United
3 States over another individual who is an alien if the
4 2 individuals are equally qualified.

5 “(4) UNFAIR IMMIGRATION-RELATED EMPLOY-
6 MENT PRACTICES RELATING TO THE SYSTEM.—It is
7 also an unfair immigration-related employment prac-
8 tice for a person, other entity, or employment agen-
9 cy—

10 “(A) to discharge or constructively dis-
11 charge an individual solely due to a further ac-
12 tion notice issued by the Employment
13 Verification System created by section 274A
14 until the administrative appeal described in sec-
15 tion 274A(d)(6) is completed;

16 “(B) to use the System with regard to any
17 person for any purpose except as authorized by
18 section 274A(d);

19 “(C) to use the System to reverify the em-
20 ployment authorization of a current employee,
21 including an employee continuing in employ-
22 ment, other than reverification in a situation
23 authorized by regulation on the date of the en-
24 actment of the Border Security, Economic Op-
25 portunity, and Immigration Modernization Act;

1 reverification upon expiration of employment
2 authorization, or as otherwise authorized under
3 section 274A(d) or by regulation;

4 “(D) to use the System selectively for em-
5 ployees, except where authorized by law;

6 “(E) to fail to provide to an individual any
7 notice required in section 274A(d) within the
8 relevant time period;

9 “(F) to use the System to deny workers’
10 employment or post-employment benefits;

11 “(G) to misuse the System to discriminate
12 based on national origin or citizenship status;

13 “(H) to require an employee or prospective
14 employee to use any self-verification feature of
15 the System or provide, as a condition of appli-
16 cation or employment, any self-verification re-
17 sults;

18 “(I) to use an immigration status
19 verification system, service, or method other
20 than those described in section 274A for pur-
21 poses of verifying employment eligibility; or

22 “(J) to grant access to document
23 verification or System data, to any individual or
24 entity other than personnel authorized to have
25 such access, or to fail to take reasonable safe-

1 guards to protect against unauthorized loss,
2 use, alteration, or destruction of System data.

3 ~~“(5) PROHIBITION OF INTIMIDATION OR RETAL-~~
4 ~~IATION.—It is also an unfair immigration-related~~
5 ~~employment practice for a person, other entity, or~~
6 ~~employment agency to intimidate, threaten, coerce,~~
7 ~~or retaliate against any individual—~~

8 “(A) for the purpose of interfering with
9 any right or privilege secured under this sec-
10 tion; or

11 “(B) because the individual intends to file
12 or has filed a charge or a complaint, testified,
13 assisted, or participated in any manner in an
14 investigation, proceeding, or hearing under this
15 section.

16 ~~“(6) TREATMENT OF CERTAIN DOCUMENTARY~~
17 ~~PRACTICES AS EMPLOYMENT PRACTICES.—A per-~~
18 ~~son’s, other entity’s, or employment agency’s re-~~
19 ~~quest, for purposes of verifying employment eligi-~~
20 ~~bility, for more or different documents than are re-~~
21 ~~quired under section 274A, or for specific docu-~~
22 ~~ments, or refusing to honor documents tendered that~~
23 ~~reasonably appear to be genuine shall be treated as~~
24 ~~an unfair immigration-related employment practice.~~

1 “~~(7) EMPLOYMENT AGENCY DEFINED.~~—In this
2 section, the term ‘employment agency’ means any
3 employer, person, or entity regularly undertaking
4 with or without compensation to procure employees
5 for an employer or to procure for employees oppor-
6 tunities to work for an employer and includes an
7 agent of such employer, person, or entity.”.

8 (b) REFERRAL BY EEOC.—Section 274B(b) (8
9 U.S.C. 1324b(b)) is amended by adding at the end the
10 following:

11 “~~(3) REFERRAL BY EEOC.~~—The Equal Employ-
12 ment Opportunity Commission shall refer all matters
13 alleging immigration-related unfair employment
14 practices filed with the Commission, including those
15 alleging violations of paragraphs (1), (4), (5), and
16 (6) of subsection (a) to the Special Counsel for Im-
17 migration-Related Unfair Employment Practices of
18 the Department of Justice.”.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
20 274B(1)(3) (8 U.S.C. 1324b(1)(3)), is amended by striking
21 the period at the end and inserting “and an additional
22 \$40,000,000 for each of fiscal years 2014 through 2016.”.

23 (d) FINES.—

1 subject to more than 1 order under
2 this paragraph, to pay a civil penalty
3 of not less than \$8,000 and not more
4 than \$25,000 for each individual sub-
5 jected to an unfair immigration-re-
6 lated employment practice; and

7 “(IV) in the case of an unfair im-
8 migration-related employment practice
9 described in paragraphs (4) through
10 (6) of subsection (a), to pay a civil
11 penalty of not less than \$500 and not
12 more than \$2,000 for each individual
13 subjected to an unfair immigration-re-
14 lated employment practice.”

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect on the date that
17 is 1 year after the date of the enactment of this Act
18 and apply to violations occurring on or after such
19 date of enactment.

20 **SEC. 3106. RULEMAKING.**

21 (a) INTERIM FINAL REGULATIONS.—

22 (1) IN GENERAL.—Not later than 1 year after
23 the date of the enactment of this Act—

24 (A) the Secretary, shall issue regulations
25 implementing sections 3101, 3104, and 3105,

1 and the amendments made by such sections;
2 and

3 ~~(B)~~ the Attorney General shall issue regu-
4 lations implementing section 3102 and the
5 amendment made by such section.

6 ~~(2) EFFECTIVE DATE.~~—Regulations issued pur-
7 suant to paragraph ~~(1)~~ shall be effective immediately
8 on an interim basis, but are subject to change and
9 revision after public notice and opportunity for a pe-
10 riod for public comment.

11 ~~(b) FINAL REGULATIONS.~~—Within a reasonable time
12 after publication of the interim regulations under sub-
13 section ~~(a)~~, the Secretary, in consultation with the Com-
14 missioner of Social Security and the Attorney General,
15 shall publish final regulations implementing this subtitle.

16 **Subtitle B—Protecting United**
17 **States Workers**

18 **SEC. 3201. PROTECTIONS FOR VICTIMS OF SERIOUS VIOLA-**
19 **TIONS OF LABOR AND EMPLOYMENT LAW OR**
20 **CRIME.**

21 ~~(a) IN GENERAL.~~—Section 101(a)(15)(U) (8 U.S.C.
22 1101(a)(15)(U)) is amended—

23 ~~(1)~~ in clause ~~(i)~~—

24 ~~(A)~~ by amending subclause ~~(I)~~ to read as
25 follows:

1 “(I) the alien—

2 “(aa) has suffered substantial
3 physical or mental abuse or substan-
4 tial harm as a result of having been a
5 victim of criminal activity described in
6 clause (iii) or of a covered violation
7 described in clause (iv); or

8 “(bb) is a victim of criminal ac-
9 tivity described in clause (iii) or of a
10 covered violation described in clause
11 (iv) and would suffer extreme hard-
12 ship upon removal;”;

13 (B) in subclause (II), by inserting “, or a
14 covered violation resulting in a claim described
15 in clause (iv) that is not the subject of a frivo-
16 lous lawsuit by the alien” before the semicolon
17 at the end; and

18 (C) by amending subclauses (III) and (IV)
19 to read as follows:

20 “(III) the alien (or in the case of an
21 alien child who is younger than 16 years of
22 age, the parent, guardian, or next friend of
23 the alien) has been helpful, is being help-
24 ful, or is likely to be helpful to—

1 “(aa) a Federal, State, or local
2 law enforcement official; a Federal,
3 State, or local prosecutor; a Federal,
4 State, or local judge; the Department
5 of Homeland Security; the Equal Em-
6 ployment Opportunity Commission;
7 the Department of Labor; or other
8 Federal or, State, or local authorities
9 investigating or prosecuting criminal
10 activity described in clause (iii); or

11 “(bb) any Federal, State, or local
12 governmental agency investigating,
13 prosecuting, or seeking civil remedies
14 for any cause of action, whether
15 criminal, civil, or administrative, aris-
16 ing from a covered violation described
17 in clause (iv) and presents a certifi-
18 cation from such Federal, State, or
19 local governmental agency attesting
20 that the alien has been helpful, is
21 being helpful, or is likely to be helpful
22 to such agency in the investigation,
23 prosecution, or adjudication arising
24 from a covered violation described in
25 clause (iv); and

1 “(IV) the criminal activity described
2 in clause (iii) or the covered violation de-
3 scribed in clause (iv)—

4 “(aa) violated the laws of the
5 United States; or

6 “(bb) occurred in the United
7 States (including Indian country and
8 military installations) or the terri-
9 tories and possessions of the United
10 States;”;

11 (2) in clause (ii)(II), by striking “and” at the
12 end;

13 (3) by moving clause (iii) 2 ems to the left;

14 (4) in clause (iii)—

15 (A) by inserting “stalking, child abuse
16 when the alien is a minor;” after “sexual exploi-
17 tation;”;

18 (B) by inserting “fraud in foreign labor
19 contracting;” before “peonage;” and

20 (C) by striking “or” at the end and insert-
21 ing “and”; and

22 (5) by adding at the end the following:

23 “(iv) a covered violation referred to in this
24 clause is—

1 “(I) a serious violation involving 1 or more
2 of the following or any similar activity in viola-
3 tion of any Federal, State, or local law, serious
4 workplace abuse, exploitation, retaliation, or
5 violation of whistleblower protections;

6 “(II) a violation giving rise to a civil cause
7 of action under section 1595 of title 18, United
8 States Code; or

9 “(III) a violation resulting in the depriva-
10 tion of due process or constitutional rights.”.

11 (b) SAVINGS PROVISION.—Nothing in section
12 101(a)(15)(U)(iv)(III) of the Immigration and Nationality
13 Act, as added by subsection (a), may be construed as al-
14 tering the definition of retaliation or discrimination under
15 any other provision of law.

16 (c) TEMPORARY STAY OF REMOVAL.—Section 274A
17 (8 U.S.C. 1324a), as amended by section 3101, is further
18 amended—

19 (1) in subsection (c) by adding at the end the
20 following:

21 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

22 If the Secretary undertakes an enforcement action
23 at a facility about which a bona fide workplace claim
24 has been filed or is contemporaneously filed, or as
25 a result of information provided to the Secretary in

1 retaliation against employees for exercising their
2 rights related to a bona fide workplace claim; the
3 Secretary shall ensure that—

4 “(A) any aliens arrested or detained who
5 are necessary for the investigation or prosecu-
6 tion of a bona fide workplace claim violations or
7 criminal activity (as described in subparagraph
8 (T) or (U) of section 101(a)(15)) are not re-
9 moved from the United States until after the
10 Secretary—

11 “(i) notifies the appropriate law en-
12 forcement agency with jurisdiction over
13 such violations or criminal activity; and

14 “(ii) provides such agency with the
15 opportunity to interview such aliens;

16 “(B) no aliens entitled to a stay of removal
17 or abeyance of removal proceedings under this
18 section are removed; and

19 “(C) the Secretary shall stay the removal
20 of an alien who—

21 “(i) has filed a covered violation de-
22 scribed in clause (iv) of section
23 101(a)(15)(U) and is the victim of the
24 same violations under an existing inves-
25 tigation;

1 “(ii) is a material witness in any
2 pending or anticipated proceeding involving
3 a bona fide workplace claim or civil rights
4 claim; or

5 “(iii) has filed for relief under such
6 section if the alien has is working with law
7 enforcement as described in clause (i)(III)
8 of such section.”; and

9 (2) by adding at the end the following:

10 “(m) VICTIMS OF CRIMINAL ACTIVITY OR LABOR
11 AND EMPLOYMENT VIOLATIONS.—The Secretary of
12 Homeland Security may permit an alien to remain tempo-
13 rarily in the United States and authorize the alien to en-
14 gage in employment in the United States if the Secretary
15 determines that the alien—

16 “(1) has filed for relief under section
17 101(a)(15)(U); or

18 “(2)(A) has filed, or is a material witness to, a
19 bona fide claim or proceedings resulting from a cov-
20 ered violation (as defined in section
21 101(a)(15)(U)(iv)); and

22 “(B) has been helpful, is being helpful, or is
23 likely to be helpful, in the investigation, prosecution
24 of, or pursuit of civil remedies related to the claim
25 arising from a covered violation; to—

1 “(i) a Federal, State, or local law enforce-
2 ment official;

3 “(ii) a Federal, State, or local prosecutor;

4 “(iii) a Federal, State, or local judge;

5 “(iv) the Department of Homeland Secu-
6 rity;

7 “(v) the Equal Employment Opportunity
8 Commission; or

9 “(vi) the Department of Labor.”.

10 (d) CONFORMING AMENDMENTS.—Section 214(p) (8
11 U.S.C. 1184(p)) is amended—

12 (1) in paragraph (1), by striking “in section
13 101(a)(15)(U)(iii).” both places it appears and in-
14 serting “in clause (iii) of section 101(a)(15)(U) or
15 investigating, prosecuting, or seeking civil remedies
16 for claims resulting from a covered violation de-
17 scribed in clause (iv) of such section.”; and

18 (2) in the first sentence of paragraph (6)—

19 (A) by striking “in section
20 101(a)(15)(U)(iii)” and inserting “in clause
21 (iii) of section 101(a)(15)(U) or claims result-
22 ing from a covered violation described in clause
23 (iv) of such section”; and

1 (B) by inserting “or claim arising from a
2 covered violation” after “prosecution of such
3 criminal activity”.

4 (e) MODIFICATION OF LIMITATION ON AUTHORITY
5 TO ADJUST STATUS FOR VICTIMS OF CRIMES.—Section
6 245(m)(1) (8 U.S.C. 1255(m)(1)) is amended, in the mat-
7 ter before subparagraph (A), by inserting “or an investiga-
8 tion or prosecution regarding a workplace or civil rights
9 claim” after “prosecution”.

10 (f) EXPANSION OF LIMITATION ON SOURCES OF IN-
11 FORMATION THAT MAY BE USED TO MAKE ADVERSE
12 DETERMINATIONS.—

13 (1) IN GENERAL.—Section 384(a)(1) of the Il-
14 legal Immigration Reform and Immigrant Responsi-
15 bility Act of 1996 (8 U.S.C. 1367(a)(1)) is amend-
16 ed—

17 (A) in each of subparagraphs (A) through
18 (D), by striking the comma at the end and in-
19 serting a semicolon;

20 (B) subparagraph (E), by striking “the
21 criminal activity,” and inserting “abuse and the
22 criminal activity or bona fide workplace claim
23 (as defined in subsection (e));”;

1 (C) in subparagraph (F), by striking “, the
2 trafficker or perpetrator,” and inserting “), the
3 trafficker or perpetrator; or”;

4 (D) by inserting after subparagraph (F)
5 the following:

6 “(G) the alien’s employer.”

7 (2) WORKPLACE CLAIM DEFINED.—Section 384
8 of the Illegal Immigration Reform and Immigrant
9 Responsibility Act of 1996 (8 U.S.C. 1367) is
10 amended by adding at the end the following:

11 “(e) WORKPLACE CLAIMS.—

12 “(1) WORKPLACE CLAIMS DEFINED.—

13 “(A) IN GENERAL.—In section (a)(1), the
14 term ‘workplace claim’ means any claim, peti-
15 tion, charge, complaint, or grievance filed with,
16 or submitted to, a Federal, State, or local agen-
17 cy or court, relating to the violation of applica-
18 ble Federal, State, or local labor or employment
19 laws.

20 “(B) CONSTRUCTIONS.—Subparagraph (A)
21 may not be construed to alter what constitutes
22 retaliation or discrimination under any other
23 provision of law.

24 “(2) PENALTY FOR FALSE CLAIMS.—Any per-
25 son who knowingly presents a false or fraudulent

1 claim to a law enforcement official in relation to a
2 covered violation for the purpose of obtaining a ben-
3 efit under this section shall be subject to a civil pen-
4 alty of not more than \$1,000.

5 ~~“(3) LIMITATION ON STAY OF ADVERSE DETER-~~
6 ~~MINATIONS.—In the case of an alien applying for~~
7 ~~status under section 101(a)(15)(U) of the Immigra-~~
8 ~~tion and Nationality Act and seeking relief under~~
9 ~~this section, the prohibition on adverse determina-~~
10 ~~tions under subsection (a) shall expire on the date~~
11 ~~that the alien’s application for status under such~~
12 ~~section is denied and all opportunities for appeal of~~
13 ~~the denial have been exhausted.”.~~

14 ~~(g) REMOVAL PROCEEDINGS.—Section 239(e) (8~~
15 ~~U.S.C. 1229(e)) is amended—~~

16 ~~(1) in paragraph (1)—~~

17 ~~(A) by striking “In cases where” and in-~~
18 ~~serting “If”; and~~

19 ~~(B) by striking “paragraph (2),” and in-~~
20 ~~serting “paragraph (2) or as a result of infor-~~
21 ~~mation provided to the Secretary of Homeland~~
22 ~~Security in retaliation against individuals for~~
23 ~~exercising or attempting to exercise their em-~~
24 ~~ployment rights or other legal rights,”; and~~

1 (2) in paragraph (2), by adding at the end the
2 following:

3 “(C) At a facility about which a bona fide
4 workplace claim has been filed or is contem-
5 poraneously filed.”.

6 **SEC. 3202. EMPLOYMENT VERIFICATION SYSTEM EDU-**
7 **CATION FUNDING.**

8 (a) **DISPOSITION OF CIVIL PENALTIES.**—Penalties
9 collected under subsections (e)(4) and (f)(3) of section
10 274A of the Immigration and Nationality Act, amended
11 by section 3101, shall be deposited, as offsetting receipts,
12 into the Comprehensive Immigration Reform Trust Fund
13 established under section 6(a)(1).

14 (b) **EXPENDITURES.**—Amounts deposited into the
15 Trust Fund under subsection (a) shall be made available
16 to the Secretary to provide education to employers and
17 employees regarding the requirements, obligations, and
18 rights under the Employment Verification System.

19 (c) **DETERMINATION OF BUDGETARY EFFECTS.**—

20 (1) **EMERGENCY DESIGNATION FOR CONGRES-**
21 **SIONAL ENFORCEMENT.**—In the Senate, amounts
22 made available under this section are designated as
23 an emergency requirement pursuant to section
24 403(a) of S. Con. Res. 13 (111th Congress); the

1 concurrent resolution on the budget for fiscal year
2 2010.

3 ~~(2) EMERGENCY DESIGNATION FOR STATUTORY~~
4 ~~PAYGO.—~~Amounts made available under this section
5 are designated as an emergency requirement under
6 section 4(g) of the Statutory Pay-As-You-Go Act of
7 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

8 **SEC. 3203. DIRECTIVE TO THE UNITED STATES SEN-**
9 **TENCING COMMISSION.**

10 (a) ~~IN GENERAL.—~~Pursuant to its authority under
11 section 994 of title 28, United States Code, and in accord-
12 ance with subsection (b), the United States Sentencing
13 Commission shall promulgate sentencing guidelines or
14 amend existing sentencing guidelines to modify, if appro-
15 priate, the penalties imposed on persons convicted of of-
16 fenses under—

17 ~~(1) section 274A of the Immigration and Na-~~
18 ~~tionality Act (8 U.S.C. 1324a), as amended by sec-~~
19 ~~tion 3101;~~

20 ~~(2) section 16 of the Fair Labor Standards Act~~
21 ~~of 1938 (29 U.S.C. 216); and~~

22 ~~(3) any other Federal law covering similar con-~~
23 ~~duct.~~

24 (b) ~~REQUIREMENTS.—~~In carrying out subsection (a),
25 the Sentencing Commission shall provide sentencing en-

1 enhancements for any person convicted of an offense de-
2 scribed in subsection (a) if such offense involves—

3 (1) the intentional confiscation of identification
4 documents;

5 (2) corruption, bribery, extortion, or robbery;

6 (3) sexual abuse;

7 (4) serious bodily injury;

8 (5) an intent to defraud; or

9 (6) a pattern of conduct involving multiple vio-
10 lations of law that—

11 (A) creates, through knowing and inten-
12 tional conduct, a risk to the health or safety of
13 any victim; or

14 (B) denies payments due to victims for
15 work completed.

16 **SEC. 3204. CONFIDENTIALITY FOR VICTIMS OF CRIME.**

17 Section 384 of the Illegal Immigration Reform and
18 Immigrant Responsibility Act of 1996 (8 U.S.C. 1367) is
19 amended—

20 (1) in subsection (a)—

21 (A) in the matter preceding paragraph

22 (1)—

23 (i) by striking “in no case may”; and

24 (ii) by inserting “or, with respect to
25 subparagraphs (E) and (F) and paragraph

1 (2), any other official or employee of a cer-
2 tifying agency, may not” after “Depart-
3 ments)” and

4 (B) in paragraph (2), by striking “who is
5 a beneficiary of an application” and inserting
6 “applying for”; and

7 (2) in subsection (b)—

8 (A) in paragraph (4), by striking “bat-
9 tered”; and

10 (B) by adding at the end the following:

11 “(8)(A) Subsection (a)(2) may not be construed
12 to prevent the disclosure of—

13 “(i) information that prosecutors are con-
14 stitutionally obligated to disclose to provide
15 statements by witnesses and certain other docu-
16 ments to defendants in a pending Federal
17 criminal proceeding; or

18 “(ii) information in a civil proceeding in
19 which a judge orders that such information be
20 disclosed in connection with a witness testifying
21 in such proceeding.

22 “(B) All information disclosed during litigation
23 pursuant to the exception set forth in this paragraph
24 for any purpose other than the purpose ordered in
25 the proceeding—

1 “(i) may not be disclosed to any non-
2 required party;

3 “(ii) shall be filed under seal, with all per-
4 sonally identifying information redacted except
5 the witness’s first name; and

6 “(iii) shall be returned to the disclosing
7 party at the conclusion of the proceeding.”.

8 **Subtitle C—Other Provisions**

9 **SEC. 3301. FUNDING.**

10 (a) ESTABLISHMENT OF THE INTERIOR ENFORCE-
11 MENT ACCOUNT.—There is hereby established in the
12 Treasury of the United States an account which shall be
13 known as the Interior Enforcement Account.

14 (b) APPROPRIATIONS.—There are authorized to be
15 appropriated to the Interior Enforcement Account
16 \$1,000,000,000 to carry out this title and the amend-
17 ments made by this title, including the following appro-
18 priations:

19 (1) In each of the 5 years beginning on the date
20 of the enactment of this Act, the appropriations nec-
21 essary to increase to a level not less than 5,000; by
22 the end of such 5-year period, the total number of
23 personnel of the Department assigned exclusively or
24 principally to an office or offices in U.S. Citizenship
25 and Immigration Services and U.S. Immigration and

1 Customs Enforcement (and consistent with the mis-
2 sions of such agencies), dedicated to administering
3 the System, and monitoring and enforcing compli-
4 ance with sections 274A, 274B, and 274C of the
5 Immigration and Nationality Act (8 U.S.C. 1324a,
6 1324b, and 1324c), including compliance with the
7 requirements of the Electronic Verification System
8 established under section 274A(d) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1324a(d)), as
10 amended by section 3101. Such personnel shall per-
11 form compliance and monitoring functions, including
12 the following:

13 (A) Verify compliance of employers partici-
14 pating in such System with the requirements
15 for participation that are prescribed by the Sec-
16 retary.

17 (B) Monitor such System for multiple uses
18 of social security account numbers and immi-
19 gration identification numbers that could indi-
20 cate identity theft or fraud.

21 (C) Monitor such System to identify dis-
22 criminatory or unfair practices.

23 (D) Monitor such System to identify em-
24 ployers who are not using such System prop-
25 erly, including employers who fail to make

1 available appropriate records with respect to
2 their queries and any notices of confirmation,
3 nonconfirmation, or further action.

4 (E) Identify instances in which an em-
5 ployee alleges that an employer violated the em-
6 ployee's privacy or civil rights, or misused such
7 System, and create procedures for an employee
8 to report such an allegation.

9 (F) Analyze and audit the use of such Sys-
10 tem and the data obtained through such System
11 to identify fraud trends, including fraud trends
12 across industries, geographical areas, or em-
13 ployer size.

14 (G) Analyze and audit the use of such Sys-
15 tem and the data obtained through such System
16 to develop compliance tools as necessary to re-
17 spond to changing patterns of fraud.

18 (H) Provide employers with additional
19 training and other information on the proper
20 use of such System, including training related
21 to privacy and employee rights.

22 (I) Perform threshold evaluation of cases
23 for referral to the Special Counsel for Immigra-
24 tion-Related Unfair Employment Practices of
25 the Department of Justice or the Equal Em-

1 employment Opportunity Commission, and other
2 officials or agencies with responsibility for en-
3 forcing anti-discrimination, civil rights, privacy,
4 or worker protection laws, as may be appro-
5 priate.

6 (J) Any other compliance and monitoring
7 activities that the Secretary determines are nec-
8 essary to ensure the functioning of such Sys-
9 tem.

10 (K) Investigate identity theft and fraud de-
11 tected through such System and undertake the
12 necessary enforcement or referral actions.

13 (L) Investigate use of or access to fraudu-
14 lent documents and undertake the necessary en-
15 forcement actions.

16 (M) Perform any other investigations that
17 the Secretary determines are necessary to en-
18 sure the lawful functioning of such System, and
19 undertake any enforcement actions necessary as
20 a result of such investigations.

21 (2) The appropriations necessary to acquire, in-
22 stall, and maintain technological equipment nec-
23 essary to support the functioning of such System
24 and the connectivity between U.S. Citizenship and
25 Immigration Services and U.S. Immigration and

1 Customs Enforcement, the Department of Justice,
2 and other agencies or officials with respect to the
3 sharing of information to support such System and
4 related immigration enforcement actions.

5 (3) The appropriations necessary to establish a
6 robust redress process for employees who wish to ap-
7 peal contested nonconfirmations to ensure the accu-
8 racy and fairness of such System.

9 (4) The appropriations necessary to provide a
10 means by which individuals may access their own
11 employment authorization data to ensure the accu-
12 racy of such data, independent of an individual's em-
13 ployer.

14 (5) To carry out the identity authentication
15 mechanisms described in section 274A(c)(1)(F) of
16 the Immigration and Nationality Act, as amended by
17 section 3101(a).

18 (6) The appropriations necessary for the Office
19 for Civil Rights and Civil Liberties and the Office of
20 Privacy of the Department to perform the respon-
21 sibilities of such Offices related to such System.

22 (7) The appropriations necessary to make
23 grants to States to support the States in assisting
24 the Federal Government in carrying out the provi-

1 sions of this title and the amendments made by this
2 title.

3 (c) AUTHORIZATION OF APPROPRIATIONS TO THE
4 COMMISSIONER OF SOCIAL SECURITY.—

5 (1) IN GENERAL.—There are authorized to be
6 appropriated to the Commissioner of Social Security
7 such sums as may be necessary to carry out the pro-
8 visions of this title and the amendments made by
9 this title.

10 (2) PROHIBITION ON USE OF TRUST FUNDS.—

11 In no case shall the Commissioner expend funds
12 from the Old Age and Survivors Trust Fund or the
13 Disability Trust Fund for expenses related to ad-
14 ministration of this title or the amendments made by
15 this title.

16 (d) AUTHORIZATION OF APPROPRIATIONS TO THE

17 ATTORNEY GENERAL.—There are authorized to be appro-
18 priated to the Attorney General such sums as may be nec-
19 essary to carry out the provisions of this title and the
20 amendments made by this title, including enforcing com-
21 pliance with section 274B of the Immigration and Nation-
22 ality Act, as amended by section 3105 of this Act.

23 (e) AUTHORIZATION OF APPROPRIATIONS TO THE

24 SECRETARY OF STATE.—There are authorized to be ap-
25 propriated to the Secretary of State such sums as may

1 be necessary to carry out the provisions of this title and
2 the amendments made by this title.

3 **SEC. 3302. EFFECTIVE DATE.**

4 Except as otherwise specifically provided, this title
5 and the amendments made by this title shall take effect
6 on the date of the enactment of this Act.

7 **SEC. 3303. MANDATORY EXIT SYSTEM.**

8 (a) **ESTABLISHMENT.**—Not later than December 31,
9 2015, the Secretary shall establish a mandatory exit data
10 system that shall include a requirement for the collection
11 of data from machine-readable visas, passports, and other
12 travel and entry documents for all categories of aliens who
13 are exiting from air and sea ports of entry.

14 (b) **INTEGRATION AND INTEROPERABILITY.**—

15 (1) **INTEGRATION OF DATA SYSTEM.**—The Sec-
16 retary shall fully integrate all data from databases
17 and data systems that process or contain informa-
18 tion on aliens, which are maintained by—

19 (A) the Department, at—

20 (i) the U.S. Immigration and Customs
21 Enforcement;

22 (ii) the U.S. Customs and Border
23 Protection; and

24 (iii) the U.S. Citizenship and Immi-
25 gration Services;

1 (~~B~~) the Department of Justice, at the Ex-
2 ecutive Office for Immigration Review; and

3 (~~C~~) the Department of State, at the Bu-
4 reau of Consular Affairs.

5 (~~2~~) INTEROPERABLE COMPONENT.—The fully
6 integrated data system under paragraph (~~1~~) shall be
7 an interoperable component of the exit data system.

8 (~~3~~) INTEROPERABLE DATA SYSTEM.—The Sec-
9 retary shall fully implement an interoperable elec-
10 tronic data system to provide current and immediate
11 access to information in the databases of Federal
12 law enforcement agencies and the intelligence com-
13 munity that is relevant to determine—

14 (~~A~~) whether to issue a visa; or

15 (~~B~~) the admissibility or deportability of an
16 alien.

17 (~~4~~) TRAINING.—The Secretary shall establish
18 ongoing training modules on immigration law to im-
19 prove adjudications at United States ports of entry,
20 consulates, and embassies.

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 present or rou-
16 tinely available if an alien needs processing as-
17 sistance; and

18 (B) which is equipped with technology that
19 is able to securely transmit identity-theft resist-
20 ant departure manifest information to the De-
21 partment.

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 paragraph (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 subparagraph (3) by means ap-
14 proved 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 non-crew subject to
20 the requirement to provide information upon depart-
21 ure ~~US-VISIT~~ processing shall collect identity-theft
22 resistant departure manifest information from each
23 alien at a collection location at the airport or seaport
24 before boarding that alien on transportation for de-
25 parture from the United States, at a time close to

1 the originally scheduled departure of that pas-
2 senger's aircraft or sea vessel as practicable.

3 ~~(3) TIME AND MANNER OF SUBMISSION.—~~

4 (A) IN GENERAL.—The appropriate official
5 specified in paragraph (1) shall ensure trans-
6 mission of the identity-theft resistant departure
7 manifest information required and collected
8 under paragraphs (1) and (2) to the Data Cen-
9 ter or Headquarters U.S. Customs and Border
10 Protection, or such other data center as may be
11 designated.

12 (B) TRANSMISSION.—The biometric depar-
13 ture information may be transmitted to the De-
14 partment over any means of communication au-
15 thorized by the Secretary for the transmission
16 of other electronic manifest information con-
17 taining personally identifiable information and
18 under transmission standards currently applica-
19 ble to other electronic manifest information.

20 (C) SUBMISSION ALONG WITH OTHER IN-
21 FORMATION.—Files containing the identity-
22 theft resistant departure manifest informa-
23 tion—

24 (i) may be sent with other electronic
25 manifest data prior to departure or may be

1 sent separately from any topically related
2 electronic manifest data; and

3 (ii) may be sent in batch mode.

4 (4) INFORMATION REQUIRED.—The identity-
5 theft resistant departure information required under
6 paragraphs (1) through (3) for each covered pas-
7 senger or crew member shall contain alien data from
8 machine-readable visas, passports, and other travel
9 and entry documents issued to the alien.

10 (c) EXCEPTION.—The identity-theft resistant depar-
11 ture manifest information specified in this section is not
12 required for any alien active duty military personnel trav-
13 eling as passengers on board a departing Department of
14 Defense commercial chartered aircraft.

15 (d) CARRIER MAINTENANCE AND USE OF IDENTITY-
16 THEFT RESISTANT DEPARTURE MANIFEST INFORMA-
17 TION.—Carrier use of identity-theft resistant departure
18 manifest information for purposes other than as described
19 in standards set by the Secretary is prohibited. Carriers
20 shall immediately notify the Chief Privacy Officer of the
21 Department in writing in event of unauthorized use or ac-
22 cess, or breach, of identity-theft resistant departure mani-
23 fest information.

24 (e) COLLECTION AT SPECIFIED LOCATION.—If the
25 Secretary determines that an air or vessel carrier has not

1 adequately complied with the provisions of this section, the
2 Secretary may, in the Secretary's discretion, require the
3 air or vessel carrier to collect identity-theft resistant de-
4 parture manifest information at a specific location prior
5 to the issuance of a boarding pass or other document on
6 the international departure, or the boarding of crew, in
7 any port through which the carrier boards aliens for inter-
8 national departure under the supervision of the Secretary
9 for such period as the Secretary considers appropriate to
10 ensure the adequate collection and transmission of biomet-
11 ric departure manifest information.

12 (f) FUNDING.—There shall be appropriated to the In-
13 terior Enforcement Account \$500,000,000 to reimburse
14 carriers for their reasonable actual expenses in carrying
15 out their duties as described in this section.

16 (g) DETERMINATION OF BUDGETARY EFFECTS.—

17 (1) EMERGENCY DESIGNATION FOR CONGRES-
18 SIONAL ENFORCEMENT.—In the Senate, amounts
19 made available under this section are designated as
20 an emergency requirement pursuant to section
21 403(a) of S. Con. Res. 13 (111th Congress), the
22 concurrent resolution on the budget for fiscal year
23 2010.

24 (2) EMERGENCY DESIGNATION FOR STATUTORY
25 PAYGO.—Amounts made available under this section

1 are designated as an emergency requirement under
2 section 4(g) of the Statutory Pay-As-You-Go Act of
3 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

4 **SEC. 3305. PROFILING.**

5 (a) PROHIBITION.—In making routine or sponta-
6 neous law enforcement decisions, such as ordinary traffic
7 stops, Federal law enforcement officers may not use race
8 or ethnicity to any degree, except that officers may rely
9 on race and ethnicity if a specific suspect description ex-
10 ists.

11 (b) EXCEPTIONS.—

12 (1) In conducting activities in connection with
13 a specific investigation, Federal law enforcement of-
14 ficers may consider race and ethnicity only to the ex-
15 tent that there is trustworthy information, relevant
16 to the locality or time frame, that links persons of
17 a particular race or ethnicity to an identified crimi-
18 nal incident, scheme, or organization. This standard
19 applies even where the use of race or ethnicity might
20 otherwise be lawful.

21 (2) In investigating or preventing threats to na-
22 tional security or other catastrophic events (includ-
23 ing the performance of duties related to air trans-
24 portation security), or in enforcing laws protecting
25 the integrity of the Nation's borders, Federal law

1 enforcement officers may not consider race or eth-
2 nicity except to the extent permitted by the Con-
3 stitution and laws of the United States.

4 (3) DEFINED TERM.—In this section, the term
5 “Federal law enforcement officer” means any offi-
6 cer, agent, or employee of the United States author-
7 ized by law or by a Government agency to engage
8 in or supervise the prevention, detection, investiga-
9 tion, or prosecution of any violation of Federal law.

10 (b) STUDY AND REGULATIONS.—

11 (1) DATA COLLECTION.—Not later than 180
12 days after the date of the enactment of this Act, the
13 Secretary shall begin collecting data regarding the
14 individualized immigration enforcement activities of
15 covered Department of Homeland Security officers.

16 (2) STUDY.—Not later than 180 days after
17 data collection under paragraph (1) commences, the
18 Secretary shall complete a study analyzing the data.

19 (3) REGULATIONS.—Not later than 90 days
20 after the date the study required by paragraph (2)
21 is completed, the Secretary, in consultation with the
22 Attorney General, shall issue regulations regarding
23 the use of race, ethnicity, and any other suspect
24 classifications the Secretary deems appropriate by
25 covered Department of Homeland Security officers.

1 (4) **REPORTS.**—Not later than 30 days after
2 completion of the study required by paragraph (2),
3 the Secretary shall submit the study to—

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

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

8 (C) the Committee on Appropriations of
9 the Senate;

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

12 (E) the Committee on the Judiciary of the
13 Senate; and

14 (F) the Committee on the Judiciary of the
15 House of Representatives.

16 (5) **DEFINED TERM.**—In this subsection, the
17 term “covered Department of Homeland Security of-
18 ficer” means any officer, agent, or employee of
19 United States Customs and Border Protection,
20 United States Immigration and Customs Enforce-
21 ment, or the Transportation Security Administra-
22 tion.

1 **Subtitle D—Asylum and Refugee**
2 **Provisions**

3 **SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF**
4 **GENUINE ASYLUM CLAIMS.**

5 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amend-
6 ed—

7 (1) in subparagraph (A), by inserting “or the
8 Secretary of Homeland Security” after “Attorney
9 General” both places such term appears;

10 (2) by striking subparagraphs (B) and (D);

11 (3) by redesignating subparagraph (C) as sub-
12 paragraph (B);

13 (4) in subparagraph (B), as redesignated, by
14 striking “subparagraph (D)” and inserting “sub-
15 paragraphs (C) and (D)”; and

16 (5) by inserting after subparagraph (B), as re-
17 designated, the following:

18 “(C) CHANGED CIRCUMSTANCES.—Not-
19 withstanding subparagraph (B), an application
20 for asylum of an alien may be considered if the
21 alien demonstrates, to the satisfaction of the
22 Attorney General or the Secretary of Homeland
23 Security, the existence of changed cir-
24 cumstances that materially affect the appli-
25 cant’s eligibility for asylum.

1 “(D) MOTION TO REOPEN CERTAIN MERI-
2 TORIOUS CLAIMS.—Notwithstanding subpara-
3 graph (B) or section 240(c)(7), an alien may
4 file a motion to reopen an asylum claim during
5 the 2-year period beginning on the date of the
6 enactment of the Border Security, Economic
7 Opportunity, and Immigration Modernization
8 Act if the alien—

9 “(i) was denied asylum based solely
10 upon a failure to meet the 1-year applica-
11 tion filing deadline in effect on the date on
12 which the application was filed;

13 “(ii) was granted withholding of re-
14 moval pursuant to section 241(b)(3) and
15 has not obtained lawful permanent resi-
16 dence in the United States pursuant to any
17 other provision of law;

18 “(iii) is not subject to the safe third
19 country exception in subsection (a)(2)(A)
20 or a bar to asylum under subsection (b)(2)
21 and should not be denied asylum as a mat-
22 ter of discretion; and

23 “(iv) is physically present in the
24 United States when the motion is filed.”.

1 **SEC. 3402. REFUGEE FAMILY PROTECTIONS.**

2 (a) CHILDREN OF REFUGEE OR ASYLEE SPOUSES
3 AND CHILDREN.—A child of an alien who qualifies for ad-
4 mission as a spouse or child under section 207(e)(2)(A)
5 or 208(b)(3) of the Immigration and Nationality Act (8
6 U.S.C. 1157(e)(2)(A) and 1158(b)(3)) shall be entitled to
7 the same admission status as such alien if the child—

8 (1) is accompanying or following to join such
9 alien; and

10 (2) is otherwise eligible under section
11 207(e)(2)(A) or 208(b)(3) of the Immigration and
12 Nationality Act.

13 **SEC. 3403. CLARIFICATION ON DESIGNATION OF CERTAIN**
14 **REFUGEES.**

15 Section 207(e)(1) (8 U.S.C. 1157(e)(1)) is amend-
16 ed—

17 (1) by inserting “(A)” before “Subject to the
18 numerical limitations”; and

19 (2) by adding at the end the following:

20 “(B)(i) The President, upon a recommendation of the
21 Secretary of State made in consultation with the Secretary
22 of Homeland Security, and after appropriate consultation,
23 may designate specifically defined groups of aliens—

24 “(I) whose resettlement in the United States is
25 justified by humanitarian concerns or is otherwise in
26 the national interest; and

1 ~~“(H) who—~~

2 ~~“(aa) share common characteristics that~~
3 ~~identify them as targets of persecution on ac-~~
4 ~~count of race, religion, nationality, membership~~
5 ~~in a particular social group, or political opinion;~~
6 ~~or~~

7 ~~“(bb) having been identified as targets as~~
8 ~~described in item (aa), share a common need~~
9 ~~for resettlement due to a specific vulnerability.~~

10 ~~“(ii) An alien who establishes membership in a group~~
11 ~~designated under clause (i) to the satisfaction of the Sec-~~
12 ~~retary of Homeland Security shall be considered a refugee~~
13 ~~for purposes of admission as a refugee under this section~~
14 ~~unless the Secretary determines that such alien ordered,~~
15 ~~incited, assisted, or otherwise participated in the persecu-~~
16 ~~tion of any person on account of race, religion, nationality,~~
17 ~~membership in a particular social group, or political opin-~~
18 ~~ion.~~

19 ~~“(iii) A designation under clause (i) is for purposes~~
20 ~~of adjudicatory efficiency and may be revoked by the~~
21 ~~President at any time after notification to Congress.~~

22 ~~“(iv) Categories of aliens established under section~~
23 ~~599D of the Foreign Operations, Export Financing, and~~
24 ~~Related Programs Appropriations Act, 1990 (Public Law~~
25 ~~101-167; 8 U.S.C. 1157 note)—~~

1 ~~“(I) shall be designated under clause (i) until~~
2 ~~the end of the first fiscal year commencing after the~~
3 ~~date of the enactment of the Border Security, Eco-~~
4 ~~nomic Opportunity, and Immigration Modernization~~
5 ~~Act; and~~

6 ~~“(II) shall be eligible for designation thereafter~~
7 ~~at the discretion of the President, considering,~~
8 ~~among other factors, whether a country under con-~~
9 ~~sideration has been designated by the Secretary of~~
10 ~~State as a ‘Country of Particular Concern’ for en-~~
11 ~~gaging in or tolerating systematic, ongoing, and~~
12 ~~egregious violations of religious freedom.~~

13 ~~“(v) A designation under clause (i) shall not influence~~
14 ~~decisions to grant, to any alien, asylum under section 208,~~
15 ~~protection under section 241(b)(3), or protection under~~
16 ~~the Convention Against Torture and Other Cruel, Inhu-~~
17 ~~man or Degrading Treatment or Punishment, done at~~
18 ~~New York December 10, 1984.~~

19 ~~“(vi) A decision to deny admission under this section~~
20 ~~to an alien who establishes to the satisfaction of the Sec-~~
21 ~~retary that the alien is a member of a group designated~~
22 ~~under clause (i) shall—~~

23 ~~“(I) be in writing; and~~

24 ~~“(II) state, to the maximum extent feasible, the~~
25 ~~reason for the denial.~~

1 “(vii) Refugees admitted pursuant to a designation
2 under clause (i) shall be subject to the number of admis-
3 sions under this section.”.

4 **SEC. 3404. ASYLUM DETERMINATION EFFICIENCY.**

5 Section 235(b)(1)(B)(ii) (8 U.S.C. 1225(b)(1)(B)(ii))
6 is amended—

7 (1) by striking “asylum.” and inserting “asy-
8 lum by an asylum officer. The asylum officer, after
9 conducting a nonadversarial asylum interview and
10 seeking supervisory review, may grant asylum to the
11 alien under section 208 or refer the case to a des-
12 ignee of the Attorney General, for a de novo asylum
13 determination, for relief under the Convention
14 Against Torture and Other Cruel, Inhuman or De-
15 grading Treatment or Punishment, done at New
16 York December 10, 1984, or for protection under
17 section 241(b)(3).”.

18 **SEC. 3405. STATELESS PERSONS IN THE UNITED STATES.**

19 (a) IN GENERAL.—Chapter 1 of title II (8 U.S.C.
20 1151 et seq.) is amended by adding at the end the fol-
21 lowing:

22 **“SEC. 210A. PROTECTION OF CERTAIN STATELESS PER-
23 SONS IN THE UNITED STATES.**

24 “(a) STATELESS PERSONS.—

1 “(1) IN GENERAL.—In this section, the term
2 ‘stateless person’ means an individual who is not
3 considered a national under the operation of the
4 laws of any country.

5 “(2) DESIGNATION OF SPECIFIC STATELESS
6 GROUPS.—The Secretary of Homeland Security, in
7 consultation with the Secretary of State, may, in the
8 discretion of the Secretary, designate specific groups
9 of individuals who are considered stateless persons,
10 for purposes of this section.

11 “(b) STATUS OF STATELESS PERSONS.—

12 “(1) RELIEF FOR CERTAIN INDIVIDUALS DE-
13 TERMINED TO BE STATELESS PERSONS.—The Sec-
14 retary of Homeland Security or the Attorney Gen-
15 eral may, in his or her discretion, provide conditional
16 lawful status to an alien who is otherwise inadmis-
17 sible or deportable from the United States if the
18 alien—

19 “(A) is a stateless person present in the
20 United States;

21 “(B) applies for such relief;

22 “(C) has not lost his or her nationality as
23 a result of his or her voluntary action or know-
24 ing inaction after arrival in the United States;

1 “(D) except as provided in paragraphs (2)
2 and (3), is not inadmissible under section
3 212(a); and

4 “(E) is not described in section
5 241(b)(3)(B)(i).

6 “(2) INAPPLICABILITY OF CERTAIN PROVI-
7 SIONS.—The provisions under paragraphs (4), (5),
8 (7), and (9)(B) of section 212(a) shall not apply to
9 any alien seeking relief under paragraph (1).

10 “(3) WAIVER.—The Secretary or the Attorney
11 General may waive any other provisions of such sec-
12 tion, other than subparagraphs (B), (C), (D)(ii),
13 (E), (G), (H), or (I) of paragraph (2), paragraph
14 (3), paragraph (6)(C)(i) (with respect to misrepre-
15 sentations relating to the application for relief under
16 paragraph (1)), or subparagraphs (A), (C), (D), or
17 (E) of paragraph (10) of section 212(a), with re-
18 spect to such an alien for humanitarian purposes, to
19 assure family unity, or if it is otherwise in the public
20 interest.

21 “(4) SUBMISSION OF PASSPORT OR TRAVEL
22 DOCUMENT.—Any alien who seeks relief under this
23 section shall submit to the Secretary of Homeland
24 Security or the Attorney General—

1 “(A) any available passport or travel docu-
2 ment issued at any time to the alien (whether
3 or not the passport or document has expired or
4 been cancelled, rescinded, or revoked); or

5 “(B) an affidavit, sworn under penalty of
6 perjury—

7 “(i) stating that the alien has never
8 been issued a passport or travel document;
9 or

10 “(ii) identifying with particularity any
11 such passport or travel document and ex-
12 plaining why the alien cannot submit it.

13 “(5) WORK AUTHORIZATION.—The Secretary of
14 Homeland Security may authorize an alien who has
15 applied for and is found prima facie eligible for or
16 been granted relief under paragraph (1) to engage
17 in employment in the United States.

18 “(6) TRAVEL DOCUMENTS.—The Secretary may
19 issue appropriate travel documents to an alien who
20 has been granted relief under paragraph (1) that
21 would allow him or her to travel abroad and be ad-
22 mitted to the United States upon return, if other-
23 wise admissible.

24 “(7) TREATMENT OF SPOUSE AND CHIL-
25 DREN.—The spouse or child of an alien who has

1 been granted conditional lawful status under para-
2 graph (1) shall, if not otherwise eligible for admis-
3 sion under paragraph (1), be granted conditional
4 lawful status under this section if accompanying, or
5 following to join, such alien if—

6 “(A) the spouse or child is admissible (ex-
7 cept as otherwise provided in paragraphs (2)
8 and (3)) and is not described in section
9 241(b)(3)(B)(i); and

10 “(B) the qualifying relationship to the
11 principal beneficiary existed on the date on
12 which such alien was granted conditional lawful
13 status.

14 “(e) ADJUSTMENT OF STATUS.—

15 “(1) INSPECTION AND EXAMINATION.—At the
16 end of the 1-year period beginning on the date on
17 which an alien has been granted conditional lawful
18 status under subsection (b), the alien may apply for
19 lawful permanent residence in the United States if—

20 “(A) the alien has been physically present
21 in the United States for at least 1 year;

22 “(B) the alien’s conditional lawful status
23 has not been terminated by the Secretary of
24 Homeland Security or the Attorney General,

1 pursuant to such regulations as the Secretary
2 or the Attorney General may prescribe; and

3 “(C) the alien has not otherwise acquired
4 permanent resident status.

5 “(2) REQUIREMENTS FOR ADJUSTMENT OF
6 STATUS.—The Secretary of Homeland Security or
7 the Attorney General; under such regulations as the
8 Secretary or the Attorney General may prescribe;
9 may adjust the status of an alien granted condi-
10 tional lawful status under subsection (b) to that of
11 an alien lawfully admitted for permanent residence
12 if such alien—

13 “(A) is a stateless person;

14 “(B) properly applies for such adjustment
15 of status;

16 “(C) has been physically present in the
17 United States for at least 1 year after being
18 granted conditional lawful status under sub-
19 section (b);

20 “(D) is not firmly resettled in any foreign
21 country; and

22 “(E) is admissible (except as otherwise
23 provided under paragraph (2) or (3) of sub-
24 section (b)) as an immigrant under this chapter

1 at the time of examination of such alien for ad-
2 justment of status.

3 “(3) RECORD.—Upon approval of an applica-
4 tion under this subsection, the Secretary of Home-
5 land Security or the Attorney General shall establish
6 a record of the alien’s admission for lawful perma-
7 nent residence as of the date that is 1 year before
8 the date of such approval.

9 “(4) NUMERICAL LIMITATION.—The number of
10 aliens who may receive an adjustment of status
11 under this section for a fiscal year shall be subject
12 to the numerical limitation of section 203(b)(4).

13 “(d) PROVING THE CLAIM.—In determining an
14 alien’s eligibility for lawful conditional status or adjust-
15 ment of status under this subsection, the Secretary of
16 Homeland Security or the Attorney General shall consider
17 any credible evidence relevant to the application. The de-
18 termination of what evidence is credible and the weight
19 to be given that evidence shall be within the sole discretion
20 of the Secretary or the Attorney General.

21 “(e) REVIEW.—

22 “(1) ADMINISTRATIVE REVIEW.—No appeal
23 shall lie from the denial of an application by the
24 Secretary, but such denial will be without prejudice

1 to the alien's right to renew the application in pro-
2 ceedings under section 240.

3 ~~“(2) MOTIONS TO REOPEN.—~~Notwithstanding
4 any limitation imposed by law on motions to reopen
5 removal, deportation, or exclusion proceedings, any
6 individual who is eligible for relief under this section
7 may file a motion to reopen proceedings in order to
8 apply for relief under this section. Any such motion
9 shall be filed within 2 years of the date of the enact-
10 ment of the Border Security, Economic Opportunity,
11 and Immigration Modernization Act.

12 ~~“(f) LIMITATION.—~~

13 ~~“(1) APPLICABILITY.—~~The provisions of this
14 section shall only apply to aliens present in the
15 United States.

16 ~~“(2) SAVINGS PROVISION.—~~Nothing in this sec-
17 tion may be construed to authorize or require—

18 ~~“(A) the admission of any alien to the~~
19 ~~United States;~~

20 ~~“(B) the parole of any alien into the~~
21 ~~United States; or~~

22 ~~“(C) the grant of any motion to reopen or~~
23 ~~reconsider filed by an alien after departure or~~
24 ~~removal from the United States.”.~~

1 (b) **JUDICIAL REVIEW.**—Section 242(a)(2)(B)(ii) (8
2 U.S.C. 1252(a)(2)(B)(ii)) is amended by striking
3 “208(a).” and inserting “208(a) or 210A.”.

4 (c) **CONFORMING AMENDMENT.**—Section 203(b)(4)
5 (8 U.S.C. 1153(b)(4)) is amended by inserting “to aliens
6 granted an adjustment of status under section 210A(e)
7 or” after “level.”.

8 (d) **CLERICAL AMENDMENT.**—The table of contents
9 for the Immigration and Nationality Act is amended by
10 inserting after the item relating to section 210 the fol-
11 lowing:

“Sec. 210A. Protection of stateless persons in the United States.”.

12 **SEC. 3406. U VISA ACCESSIBILITY.**

13 Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is
14 amended by striking “10,000.” and inserting “18,000, of
15 which not more than 3,000 visas may be issued for aliens
16 who are victims of a covered violation described in section
17 101(a)(15)(U).”.

18 **SEC. 3407. REPRESENTATION AT OVERSEAS REFUGEE**
19 **INTERVIEWS.**

20 Section 207(e) (8 U.S.C. 1157(e)) is amended by
21 adding at the end the following:

22 “(5) The adjudicator of an application for ref-
23 ugee status under this section shall consider all rel-
24 evant evidence and maintain a record of the evidence
25 considered.

1 “(6) An applicant for refugee status may be
2 represented, including at a refugee interview, at no
3 expense to the Government, by an attorney or ac-
4 credited representative who—

5 “(A) was chosen by the applicant; and

6 “(B) is authorized by the Secretary of
7 Homeland Security to be recognized as the rep-
8 resentative of such applicant in an adjudication
9 under this section.

10 “(7)(A) A decision to deny an application for
11 refugee status under this section—

12 “(i) shall be in writing; and

13 “(ii) shall provide, to the maximum extent
14 feasible, information on the reason for the de-
15 nial, including—

16 “(I) the facts underlying the deter-
17 mination; and

18 “(II) whether there is a waiver of in-
19 admissibility available to the applicant.

20 “(B) The basis of any negative credibility find-
21 ing shall be part of the written decision.

22 “(8)(A) An applicant who is denied refugee sta-
23 tus under this section may file a request with the
24 Secretary for a review of his or her application not
25 later than 120 days after such denial.

1 “(B) A request filed under subparagraph (A)
2 shall be adjudicated by refugee officers who have re-
3 ceived training on considering requests for review of
4 refugee applications that have been denied.

5 “(C) The Secretary shall publish the standard
6 applied to a request for review.

7 “(D) A request for review may result in the de-
8 cision being granted, denied, or reopened for a fur-
9 ther interview.

10 “(E) A decision on a request for review under
11 this paragraph—

12 “(i) shall be in writing; and

13 “(ii) shall provide, to the maximum extent
14 feasible, information on the reason for the de-
15 nial.”.

16 **Subtitle E—Shortage of Immigra-**
17 **tion Court Resources for Re-**
18 **moval Proceedings**

19 **SEC. 3501. SHORTAGE OF IMMIGRATION COURT PER-**
20 **SONNEL FOR REMOVAL PROCEEDINGS.**

21 (a) **IMMIGRATION COURT JUDGES.**—The Attorney
22 General shall increase the total number of immigration
23 judges to adjudicate current pending cases and efficiently
24 process future cases by at least—

25 (1) 75 in fiscal year 2014;

1 ~~(2) 75 in fiscal year 2015; and~~

2 ~~(3) 75 in fiscal year 2016.~~

3 ~~(b) NECESSARY SUPPORT STAFF FOR IMMIGRATION~~
4 ~~COURT JUDGES.—The Attorney General shall address the~~
5 ~~shortage of support staff for immigration judges by ensur-~~
6 ~~ing that each immigration judge has the assistance of the~~
7 ~~necessary support staff, including the equivalent of 1 staff~~
8 ~~attorney or law clerk and 1 legal assistant.~~

9 ~~(c) ANNUAL INCREASES IN BOARD OF IMMIGRATION~~
10 ~~APPEALS PERSONNEL.—The Attorney General shall in-~~
11 ~~crease the number of Board of Immigration Appeals staff~~
12 ~~attorneys (including the necessary additional support~~
13 ~~staff) to efficiently process cases by at least—~~

14 ~~(1) 30 in fiscal year 2014;~~

15 ~~(2) 30 in fiscal year 2015; and~~

16 ~~(3) 30 in fiscal year 2016.~~

17 ~~(d) FUNDING.—There shall be appropriated, from~~
18 ~~the Comprehensive Immigration Reform Trust Fund es-~~
19 ~~tablished under section 6(a)(1), such sums as may be nec-~~
20 ~~essary to carry out this section.~~

21 **SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY**
22 **AND REDUCING COSTS BY INCREASING AC-**
23 **CESS TO LEGAL INFORMATION.**

24 ~~(a) CLARIFICATION REGARDING THE AUTHORITY OF~~
25 ~~THE ATTORNEY GENERAL TO APPOINT COUNSEL TO~~

1 ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 (8
2 U.S.C. 1362) is amended—

3 (1) by inserting “(a)” before “In any”;

4 (2) by striking “(at no expense to the Govern-
5 ment)”;

6 (3) by striking “he shall” and inserting “the
7 person shall”; and

8 (4) by adding at the end the following:

9 “(b) The Government is not required to provide coun-
10 sel to aliens under subsection (a). However, the Attorney
11 General may, in the Attorney General’s sole and
12 unreviewable discretion, appoint or provide counsel to
13 aliens in immigration proceedings conducted under section
14 240 of this Act.”.

15 (b) APPOINTMENT OF COUNSEL IN CERTAIN
16 CASES.—Section 240(b)(4) (8 U.S.C. 1229a(b)(4)) is
17 amended—

18 (1) in subparagraph (A), by striking “, at no
19 expense to the Government,”; and

20 (2) by adding at the end the following: “The
21 Government is not required to provide counsel to
22 aliens under this paragraph. However, the Attorney
23 General may, in the Attorney General’s sole and
24 unreviewable discretion, appoint or provide counsel

1 at government expense to aliens in immigration pro-
2 ceedings.”.

3 (c) APPOINTMENT OF COUNSEL FOR UNACCOM-
4 PANIED ALIEN CHILDREN AND ALIENS WITH A SERIOUS
5 MENTAL DISABILITY.—Section 292 (8 U.S.C. 1362), as
6 amended by subsection (a), is further amended by adding
7 at the end the following:

8 “(c) Notwithstanding subsection (b), the Attorney
9 General shall appoint counsel, at the expense of the Gov-
10 ernment, if necessary, to represent an alien in a removal
11 proceeding who has been determined by the Secretary to
12 be an unaccompanied alien child, is incompetent to rep-
13 resent himself or herself due to a serious mental disability
14 that would be included in section 3(2) of the Americans
15 with Disabilities Act of 1990 (42 U.S.C. 12102(2)), or is
16 considered particularly vulnerable when compared to other
17 aliens in removal proceedings, such that the appointment
18 of counsel is necessary to help ensure fair resolution and
19 efficient adjudication of the proceedings.”.

20 (d) FUNDING.—There shall be appropriated, from
21 the Comprehensive Immigration Reform Trust Fund es-
22 tablished under section 6(a)(1), such sums as may be nec-
23 essary to carry out this section and the amendments made
24 by this section.

1 **SEC. 3503. OFFICE OF LEGAL ACCESS PROGRAMS.**

2 (a) ESTABLISHMENT OF OFFICE OF LEGAL ACCESS
3 PROGRAMS.—The Attorney General shall establish within
4 the Executive Office for Immigration Review an Office of
5 Legal Access Programs to develop and administer a sys-
6 tem of legal orientation programs to make immigration
7 proceedings more efficient and cost effective by educating
8 aliens regarding administrative procedures and legal
9 rights under United States immigration law and to estab-
10 lish other programs to assist in providing aliens access to
11 legal information.

12 (b) LEGAL ORIENTATION PROGRAMS.—The legal ori-
13 entation programs—

14 (1) shall provide programs to assist detained
15 aliens in making informed and timely decisions re-
16 garding their removal and eligibility for relief from
17 removal in order to increase efficiency and reduce
18 costs in immigration proceedings and Federal cus-
19 tody processes and to improve access to counsel and
20 other legal services;

21 (2) may provide services to detained aliens in
22 immigration proceedings under sections 235, 238,
23 240, and 241(a)(5) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1225, 1228, 1229a, and
25 1231(a)(5)) and to other aliens in immigration and
26 asylum proceedings under sections 235, 238, and

1 240 of the Immigration and Nationality Act (8
2 U.S.C. 1225, 1228, and 1229a); and

3 ~~(3)~~ shall identify unaccompanied alien children,
4 aliens with a serious mental disability, and other
5 particularly vulnerable aliens for consideration by
6 the Attorney General pursuant to section 292(e) of
7 the Immigration and Nationality Act, as added by
8 section 3502(e).

9 (c) PROCEDURES.—The Secretary shall establish pro-
10 cedures that ensure that legal orientation programs are
11 available for all detained aliens within 5 days of arrival
12 into custody and to inform such aliens of the basic proce-
13 dures of immigration hearings, their rights relating to
14 those hearings under the immigration laws, information
15 that may deter such aliens from filing frivolous legal
16 claims, and any other information deemed appropriate by
17 the Attorney General, such as a contact list of potential
18 legal resources and providers.

19 (d) RULE OF CONSTRUCTION.—Nothing in this sub-
20 section shall be construed to create any substantive or pro-
21 cedural right or benefit that is legally enforceable by any
22 party against the United States or its agencies or officers
23 or any other person.

24 (e) 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. 3504. CODIFYING BOARD OF IMMIGRATION APPEALS.**

4 (a) DEFINITION OF BOARD MEMBER.—Section
5 101(a) (8 U.S.C. 1101(a)) is amended by adding at the
6 end the following:

7 “(53) The term ‘Board Member’ means an at-
8 torney whom the Attorney General appoints as an
9 administrative judge within the Executive Office for
10 Immigration Review to serve on the Board of Immi-
11 gration Appeals, qualified to review decisions of im-
12 migration judges and other matters within the juris-
13 diction of the Board of Immigration Appeals.”

14 (b) BOARD OF IMMIGRATION APPEALS.—Section
15 240(a)(1) (8 U.S.C. 1229a(a)(1)) is amended by adding
16 at the end the following: “The Board of Immigration Ap-
17 peals and its Board Members shall review decisions of im-
18 migration judges under this section.”

19 (c) APPEALS.—Section 240(b)(4) (8 U.S.C.
20 1229a(b)(4)), as amended by section 3502(b), is further
21 amended—

22 (1) in subparagraph (B), by striking “, and”
23 and inserting a semicolon;

24 (2) in subparagraph (C), by striking the period
25 and inserting “, and”; and

1 ~~(3)~~ by inserting after subparagraph ~~(C)~~ the fol-
2 lowing:

3 ~~“(D) the alien may appeal the immigration~~
4 ~~judge’s decision to a 3-judge panel of the Board~~
5 ~~of Immigration Appeals.”.~~

6 ~~(d) DECISION AND BURDEN OF PROOF.—Section~~
7 ~~240(e)(1)(A) (8 U.S.C. 1229a(e)(1)(A)) is amended to~~
8 read as follows:

9 ~~“(A) IN GENERAL.—At the conclusion of~~
10 ~~the proceeding, the immigration judge shall de-~~
11 ~~cide whether an alien is removable from the~~
12 ~~United States. The determination of the immi-~~
13 ~~gration judge shall be based only on the evi-~~
14 ~~dence produced at the hearing. On appeal, the~~
15 ~~Board of Immigration Appeals shall issue a~~
16 ~~written opinion. The opinion shall address all~~
17 ~~dispositive arguments raised by the parties. The~~
18 ~~panel may incorporate by reference the opinion~~
19 ~~of the immigration judge whose decision is~~
20 ~~being reviewed, provided that the panel also ad-~~
21 ~~dresses any arguments made by the nonpre-~~
22 ~~vailing party regarding purported errors of law,~~
23 ~~fact, or discretion.”.~~

1 **SEC. 3505. IMPROVED TRAINING FOR IMMIGRATION**
2 **JUDGES AND BOARD MEMBERS.**

3 (a) **IN GENERAL.**—Section 240 (8 U.S.C. 1229a) is
4 amended by adding at the end the following:

5 “(f) **IMPROVED TRAINING.**—

6 “(1) **IMPROVED TRAINING FOR IMMIGRATION**
7 **JUDGES AND BOARD MEMBERS.**—

8 “(A) **IN GENERAL.**—In consultation with
9 the Attorney General and the Director of the
10 Federal Judicial Center, the Director of the Ex-
11 ecutive Office for Immigration Review shall re-
12 view and modify, as appropriate, training pro-
13 grams for immigration judges and Board Mem-
14 bers.

15 “(B) **ELEMENTS OF REVIEW.**—Each such
16 review shall study—

17 “(i) the expansion of the training pro-
18 gram for new immigration judges and
19 Board Members;

20 “(ii) continuing education regarding
21 current developments in the field of immi-
22 gration law; and

23 “(iii) methods to ensure that immigra-
24 tion judges are trained on properly crafting
25 and dictating decisions.

1 “(2) IMPROVED TRAINING AND GUIDANCE FOR
2 STAFF.—The Director of the Executive Office for
3 Immigration Review shall—

4 “(A) modify guidance and training regard-
5 ing screening standards and standards of re-
6 view; and

7 “(B) ensure that Board Members provide
8 staff attorneys with appropriate guidance in
9 drafting decisions in individual cases, consistent
10 with the policies and directives of the Director
11 of the Executive Office for Immigration Review
12 and the Chairman of the Board of Immigration
13 Appeals.”.

14 (b) FUNDING.—There shall be appropriated, from the
15 Comprehensive Immigration Reform Trust Fund estab-
16 lished under section 6(a)(1), such sums as may be nec-
17 essary to carry out this section and the amendment made
18 by this section.

19 **SEC. 3506. IMPROVED RESOURCES AND TECHNOLOGY FOR**
20 **IMMIGRATION COURTS AND BOARD OF IMMI-**
21 **GRATION APPEALS.**

22 (a) IMPROVED ON-BENCH REFERENCE MATERIALS
23 AND DECISION TEMPLATES.—The Director of the Execu-
24 tive Office for Immigration Review shall ensure that immi-
25 gration judges are provided with updated reference mate-

1 rials and standard decision templates that conform to the
2 law of the circuits in which they sit.

3 (b) PRACTICE MANUAL.—The Director of the Execu-
4 tive Office for Immigration Review shall produce a prac-
5 tice manual describing best practices for the immigration
6 courts and shall make such manual available electronically
7 to counsel and litigants who appear before the immigra-
8 tion courts.

9 (c) RECORDING SYSTEM AND OTHER TECH-
10 NOLOGIES.—

11 (1) PLAN REQUIRED.—The Director of the Ex-
12 ecutive Office for Immigration Review shall provide
13 the Attorney General with a plan and a schedule to
14 replace the immigration courts' tape recording sys-
15 tem with a digital recording system that is compat-
16 ible with the information management systems of
17 the Executive Office for Immigration Review.

18 (2) AUDIO RECORDING SYSTEM.—Consistent
19 with the plan described in paragraph (1), the Direc-
20 tor shall pilot a digital audio recording system not
21 later than 1 year after the enactment of this Act,
22 and shall begin nationwide implementation of that
23 system as soon as practicable.

24 (d) IMPROVED TRANSCRIPTION SERVICES.—Not
25 later than 1 year after the enactment of this Act, the Di-

1 rector of the Executive Office for Immigration Review
2 shall report to the Attorney General on the current tran-
3 scription services utilized by the Office and recommend
4 improvements to this system regarding quality and timeli-
5 ness of transcription.

6 (c) IMPROVED INTERPRETER SELECTION.—Not later
7 than 1 year after the enactment of this Act, the Director
8 of the Executive Office for Immigration Review shall re-
9 port to the Attorney General on the current interpreter
10 selection process utilized by the Office and recommend im-
11 provements to this process regarding screening, hiring,
12 certification, and evaluation of staff and contract inter-
13 preters.

14 (f) FUNDING.—There shall be appropriated, from the
15 Comprehensive Immigration Reform Trust Fund estab-
16 lished under section 6(a)(1), such sums as may be nec-
17 essary to carry out this section.

18 **Subtitle F—Prevention of Traf-**
19 **ficking in Persons and Abuses**
20 **Involving Workers Recruited**
21 **Abroad**

22 **SEC. 3601. DEFINITIONS.**

23 (a) IN GENERAL.—Except as otherwise provided by
24 this subtitle, the terms used in this subtitle shall have the
25 same meanings, respectively, as are given those terms in

1 section 3 of the Fair Labor Standards Act of 1938 (29
2 U.S.C. 203).

3 (b) OTHER DEFINITIONS.—

4 (1) FOREIGN LABOR CONTRACTOR.—The term
5 “foreign labor contractor” means any person who
6 performs any foreign labor contracting activity, in-
7 cluding any person who performs foreign labor con-
8 tracting activity wholly outside of the United States,
9 except that the term does not include any entity of
10 the United States Government.

11 (2) FOREIGN LABOR CONTRACTING ACTIVITY.—
12 The term “foreign labor contracting activity” means
13 recruiting, soliciting, hiring, employing, sponsoring,
14 managing, furnishing, processing visa applications
15 for, transporting, or housing an individual who re-
16 sides outside of the United States in furtherance of
17 employment in the United States, including when
18 such activity occurs wholly outside of the United
19 States.

20 (3) PERSON.—The term “person” means any
21 natural person or any corporation, company, firm,
22 partnership, joint stock company or association or
23 other organization or entity (whether organized
24 under law or not), including municipal corporations.

1 (4) SECRETARY.—The term the “Secretary”
2 means the Secretary of Labor.

3 (5) WORKER.—the term “worker” means an in-
4 dividual or exchange visitor who is the subject of for-
5 eign labor contracting activity.

6 **SEC. 3602. DISCLOSURE.**

7 (a) REQUIREMENT FOR DISCLOSURE.—Any person
8 who engages in foreign labor contracting activity shall as-
9 certain and disclose in writing in English and in the pri-
10 mary language of the worker at the time of the worker’s
11 recruitment, the following information:

12 (1) The identity and address of the employer
13 and the identity and address of the person con-
14 ducting the recruiting on behalf of the employer, in-
15 cluding any subcontractor or agent involved in such
16 recruiting.

17 (2) All assurances and terms and conditions of
18 employment, from the prospective employer for
19 whom the worker is being recruited, including the
20 work hours, level of compensation to be paid, the
21 place and period of employment, a description of the
22 type and nature of employment activities, any
23 withholdings or deductions from compensation and
24 any penalties for terminating employment.

1 (3) A signed copy of the work contract between
2 the worker and the employer.

3 (4) The type of visa under which the foreign
4 worker is to be employed; the length of time for
5 which the visa will be valid and the terms and condi-
6 tions under which this visa will be renewed with a
7 clear statement of whether the employer will secure
8 renewal of this visa or if renewal must be obtained
9 by the worker and any expenses associated with se-
10 curing or renewing the visa.

11 (5) An itemized list of any costs or expenses to
12 be charged to the worker and any deductions to be
13 taken from wages, including any costs for housing or
14 accommodation; transportation to and from the
15 worksite; meals; health insurance; workers' com-
16 pensation; costs of benefits provided; medical exami-
17 nations; healthcare; tools; or safety equipment costs.

18 (6) The existence of any labor organizing effort,
19 strike, lockout, or other labor dispute at the place of
20 employment.

21 (7) Whether and the extent to which workers
22 will be compensated through workers' compensation;
23 private insurance; or otherwise for injuries or death,
24 including work related injuries and death, during the
25 period of employment and, if so, the name of the

1 State workers' compensation insurance carrier or the
2 name of the policyholder of the private insurance;
3 the name and the telephone number of each person
4 who must be notified of an injury or death, and the
5 time period within which such notice must be given.

6 (8) A statement, in a form specified by the Sec-
7 retary—

8 (A) stating that—

9 (i) no foreign labor contractor, agent,
10 or employee of a foreign labor contractor,
11 may lawfully assess any fee (including visa
12 fees, processing fees, transportation fees,
13 legal expenses, placement fees, and other
14 costs) to a worker for any foreign labor
15 contracting activity; and

16 (ii) the employer may bear such costs
17 or fees for the foreign labor contractor, but
18 that these fees cannot be passed along to
19 the worker; and

20 (B) explaining that—

21 (i) no additional requirements or
22 changes may be made from the terms of
23 the contract originally signed by the work-
24 er unless the worker is provided at least 48

1 hours to review and consider the additional
2 requirements or changes;

3 (ii) no such additional requirements or
4 changes may be made to the original con-
5 tract signed by the worker without the spe-
6 cific consent of the worker to each such
7 additional requirement or change; and

8 (iii) such consent shall be obtained
9 voluntarily and without threat of penalty
10 and if not so obtained will be a violation of
11 law subject to the provisions of section
12 3611;

13 (C) describing the protections afforded the
14 worker by this section and by section 202 of the
15 William Wilberforce Trafficking Victims Protec-
16 tion Reauthorization Act of 2008 (8 U.S.C.
17 1375b) and any applicable visa program, in-
18 cluding—

19 (i) relevant information about the pro-
20 cedure for filing a complaint provided for
21 in section 3611 and

22 (ii) the telephone number for the na-
23 tional human trafficking resource center
24 hotline number.

1 (9) Any education or training to be provided or
2 required, including the nature, timing and cost of
3 such training and the person who will pay such
4 costs, whether the training is a condition of employ-
5 ment, continued employment, or future employment;
6 and whether the worker will be paid or remunerated
7 during the training period, including the rate of pay.

8 (10) Any other information that the Secretary
9 may require by regulation.

10 (b) RELATIONSHIP TO LABOR AND EMPLOYMENT

11 LAWS.—Nothing in the disclosure required by subsection

12 (a) shall constitute a legal conclusion as to the worker's
13 status or rights under the labor and employment laws.

14 (c) PROHIBITION ON FALSE AND MISLEADING IN-

15 FORMATION.—No foreign labor contractor or employer

16 who engages in any foreign labor contracting activity shall

17 knowingly provide materially false or misleading informa-

18 tion to any worker concerning any matter required to be

19 disclosed under section (a). The disclosure required by this

20 section is a document concerning the proper administra-

21 tion of a matter within the jurisdiction of a department

22 or agency of the United States for the purposes of section

23 1519 of title 18, United States Code.

1 **SEC. 3603. PROHIBITION ON DISCRIMINATION.**

2 (a) IN GENERAL.—It shall be unlawful for an em-
3 ployer or a foreign labor contractor to fail or refuse to
4 hire, discharge, intimidate, threaten, restrain, coerce, or
5 blacklist any individual or otherwise discriminate against
6 an individual with respect to compensation, terms, condi-
7 tions, or privileges of employment, because of such individ-
8 ual's race, color, creed, sex, national origin, religion, age,
9 or disability.

10 (b) DETERMINATIONS OF DISCRIMINATION.—For the
11 purposes of determining the existence of unlawful dis-
12 crimination under subsection (a)—

13 (1) in the case of a claim of discrimination
14 based on race, color, creed, sex, national origin, or
15 religion, the same legal standards shall apply as are
16 applicable under title VII of the Civil Rights Act of
17 1964 (42 U.S.C. 2000e et seq.);

18 (2) in the case of a claim of discrimination
19 based on unlawful discrimination based on age, the
20 same legal standards shall apply as are applicable
21 under the Age Discrimination in Employment Act of
22 1967 (29 U.S.C. 621 et seq.); and

23 (3) in the case of a claim of discrimination
24 based on disability, the same legal standards shall
25 apply as are applicable under title I of the Ameri-

1 eans With Disabilities Act of 1990 (42 U.S.C.
2 12111 et seq.).

3 **SEC. 3604. RECRUITMENT FEES.**

4 No employer, foreign labor contractor, or agent or
5 employee of a foreign labor contractor, shall assess any
6 fee (including visa fees, processing fees, transportation
7 fees, legal expenses, placement fees, and other costs) to
8 a worker for any foreign labor contracting activity.

9 **SEC. 3605. REGISTRATION.**

10 (a) **REQUIREMENT TO REGISTER.—**

11 (1) **IN GENERAL.—**Subject to paragraph (2),
12 prior to engaging in any foreign labor contracting
13 activity, any person who is a foreign labor contractor
14 or who, for any money or other valuable consider-
15 ation paid or promised to be paid, performs a for-
16 eign labor contracting activity on behalf of a foreign
17 labor contractor, shall obtain a certificate of reg-
18 istration from the Secretary of Labor pursuant to
19 regulations promulgated by the Secretary under sub-
20 section (e).

21 (2) **EXCEPTION FOR CERTAIN EMPLOYERS.—**An
22 employer, or employee of an employer, who engages
23 in foreign labor contracting activity solely to find
24 employees for that employer's own use, and without
25 the participation of any other foreign labor con-

1 tractor, shall not be required to register under this
2 section. Notwithstanding the preceding sentence,
3 such an employer shall be subject to the require-
4 ments of subsections (a) and (c) of section 3602 and
5 sections 3603 and 3604 and shall be subject to the
6 remedies under section 3610 for all violations stem-
7 ming from the employer's own foreign labor con-
8 tracting activity.

9 (b) NOTIFICATION.—

10 (1) ANNUAL EMPLOYER NOTIFICATION.—Each
11 employer shall notify the Secretary, not less fre-
12 quently than once every year, of the identity of any
13 foreign labor contractor involved in any foreign labor
14 contracting activity for, or on behalf of, the em-
15 ployer, including at a minimum, the name and ad-
16 dress of the foreign labor contractor and a descrip-
17 tion of the services.

18 (2) ANNUAL FOREIGN LABOR CONTRACTOR NO-
19 TIFICATION.—Each foreign labor contractor shall
20 notify the Secretary, not less frequently than once
21 every year, of the identity of any subcontractee,
22 agent, or foreign labor contractor employee involved
23 in any foreign labor contracting activity for, or on
24 behalf of, the foreign labor contractor.

1 (3) NONCOMPLIANCE NOTIFICATION.—An em-
2 ployer shall notify the Secretary of the identity of a
3 foreign labor contractor whose activities do not com-
4 ply with this subtitle.

5 (4) AGREEMENT.—Not later than 48 hours
6 after receiving a request from the Secretary, an em-
7 ployer shall provide the Secretary with the identity
8 of any foreign labor contractor with which the em-
9 ployer has a contract or other agreement.

10 (e) REGULATIONS.—Not later than 180 days after
11 the date of the enactment of this Act, the Secretary shall
12 promulgate regulations to establish an efficient electronic
13 process for the timely investigation and approval of an ap-
14 plication for a certificate of registration of foreign labor
15 contractors, including—

16 (1) a declaration, subscribed and sworn to by
17 the applicant, stating the applicant's permanent
18 place of residence, the foreign labor contracting ac-
19 tivities for which the certificate is requested, and
20 such other relevant information as the Secretary
21 may require;

22 (2) a set of fingerprints of the applicant;

23 (3) an expeditious means to update registra-
24 tions and renew certificates;

1 (4) providing for the consent of any foreign
2 labor recruiter to the designation by a court of the
3 Secretary as an agent available to accept service of
4 summons in any action against the applicant, if the
5 applicant has left the jurisdiction in which the action
6 is commenced, otherwise has become unavailable to
7 accept service or is subject to personal jurisdiction
8 in no State;

9 (5) providing for the consent of any foreign
10 labor recruiter to jurisdiction in the Department of
11 Labor or any state or Federal court of the United
12 States for any action brought by any aggrieved indi-
13 vidual or worker;

14 (6) providing for cooperation in any investiga-
15 tion by the Secretary or other appropriate authori-
16 ties;

17 (7) providing for consent to the forfeiture of the
18 bond for failure to cooperate with these provisions;

19 (8) providing for consent to be liable for viola-
20 tions of this subtitle by any agents or subcontractees
21 of any level in relation to the foreign labor con-
22 tracting activity of the agent or subcontractee to the
23 same extent as if the foreign labor contractor had
24 committed the violation;

1 (9) providing for consultation with other appro-
2 priate Federal agencies to determine whether any
3 reason exists to deny registration to a foreign labor
4 contractor; and

5 (10) any other requirements that the Secretary
6 may prescribe.

7 (d) ~~TERM OF REGISTRATION.~~—Unless suspended or
8 revoked, a certificate under this section shall be valid for
9 ~~2~~ years.

10 (e) ~~APPLICATION FEE.~~—

11 (1) ~~REQUIREMENT FOR FEE.~~—In addition to
12 any other fees authorized by law, the Secretary shall
13 impose a fee, to be deposited in the general fund of
14 the Treasury, on a foreign labor contractor that sub-
15 mits an application for a certificate of registration
16 under this section.

17 (2) ~~AMOUNT OF FEE.~~—The amount of the fee
18 required by paragraph (1) shall be set at a level that
19 the Secretary determines sufficient to cover the full
20 costs of carrying out foreign labor contract registra-
21 tion activities under this subtitle, including worker
22 education and any additional costs associated with
23 the administration of the fees collected.

24 (f) ~~REFUSAL TO ISSUE; REVOCATION.~~—In accord-
25 ance with regulations promulgated by the Secretary, the

1 Secretary shall refuse to issue or renew, or shall revoke
2 and debar from eligibility to obtain a certificate of reg-
3 istration for a period of not greater than 5 years, after
4 notice and an opportunity for a hearing, a certificate of
5 registration under this section if—

6 (1) the applicant for, or holder of, the certifi-
7 cation has knowingly made a material misrepresen-
8 tation in the application for such certificate;

9 (2) the applicant for, or holder of, the certifi-
10 cation is not the real party in interest in the applica-
11 tion or certificate of registration and the real party
12 in interest—

13 (A) is a person who has been refused
14 issuance or renewal of a certificate;

15 (B) has had a certificate revoked; or

16 (C) does not qualify for a certificate under
17 this section;

18 (3) the applicant for, or holder of, the certifi-
19 cation has been convicted within the preceding 5
20 years of —

21 (A) any felony under State or Federal law
22 or crime involving robbery, bribery, extortion,
23 embezzlement, grand larceny, burglary, arson,
24 violation of narcotics laws, murder, rape, as-
25 sult with intent to kill, assault which inflicts

1 grievous bodily injury, prostitution, peonage, or
2 smuggling or harboring individuals who have
3 entered the United States illegally; or

4 (B) any crime relating to gambling, or to
5 the sale, distribution or possession of alcoholic
6 beverages, in connection with or incident to any
7 labor contracting activities.

8 (4) the applicant for, or holder of, the certifi-
9 cation has materially failed to comply with this sec-
10 tion.

11 (g) RE-REGISTRATION OF VIOLATORS.—The Sec-
12 retary shall establish a procedure by which a foreign labor
13 contractor that has had its registration revoked under sub-
14 section (f) may seek to re-register under this subsection
15 by demonstrating to the Secretary's satisfaction that the
16 foreign labor contractor has not violated this subtitle in
17 the previous 5 years and that the foreign labor contractor
18 has taken sufficient steps to prevent future violations of
19 this subtitle.

20 **SEC. 3606. BONDING REQUIREMENT.**

21 (a) IN GENERAL.—The Secretary shall require a for-
22 eign labor contractor to post a bond in an amount suffi-
23 cient to ensure the ability of the foreign labor contractor
24 to discharge its responsibilities and to ensure protection
25 of workers, including wages.

1 (b) REGULATIONS.—The Secretary, by regulation,
2 shall establish the conditions under which the bond
3 amount is determined, paid, and forfeited.

4 (c) RELATIONSHIP TO OTHER REMEDIES.—The bond
5 requirements and forfeiture of the bond under this section
6 shall be in addition to other remedies under 3610 or any
7 other law.

8 **SEC. 3607. MAINTENANCE OF LISTS.**

9 (a) IN GENERAL.—The Secretary shall maintain—

10 (1) a list of all foreign labor contractors reg-
11 istered under this subsection, including—

12 (A) the countries from which the contrac-
13 tors recruit;

14 (B) the employers for whom the contrac-
15 tors recruit;

16 (C) the visa categories and occupations for
17 which the contractors recruit; and

18 (D) the States where recruited workers are
19 employed; and

20 (2) a list of all foreign labor contractors whose
21 certificate of registration the Secretary has revoked.

22 (b) UPDATES; AVAILABILITY.—The Secretary shall—

23 (1) update the lists required by subsection (a)
24 on an ongoing basis, not less frequently than every
25 6 months; and

1 (2) make such lists publicly available, including
2 through continuous publication on Internet websites
3 and in written form at and on the websites of
4 United States embassies in the official language of
5 that country.

6 (c) ~~INTER-AGENCY AVAILABILITY.~~—The Secretary
7 shall share the information described in subsection (a)
8 with the Secretary of State

9 **SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-**
10 **TIONALITY ACT.**

11 Section 214 (8 U.S.C. 1184) is amended by adding
12 at the end the following:

13 “(s) A visa shall not be issued under the subpara-
14 graph (A)(iii), (B)(i) (but only for domestic servants de-
15 scribed in clause (i) or (ii) of section 274a.12(c)(17) of
16 title 8, Code of Federal Regulations (as in effect on De-
17 cember 4, 2007)), (G)(v), (H), (J), (L), (Q), (R) or add
18 any new immigration subsections of section 101(a)(15)
19 until the consular officer—

20 “(1) has provided to and reviewed with the ap-
21 plicant, in the applicant’s language (or a language
22 the applicant understands), a copy of the informa-
23 tion and resources pamphlet required by section 202
24 of the William Wilberforce Trafficking Victims Pro-

1 tecton Reauthorization Act of 2008 (8 U.S.C.
2 1375b) ; and

3 “(2) has reviewed and made a part of the visa
4 file the foreign labor recruiter disclosures required
5 by section 3602 of the Border Security, Economic
6 Opportunity, and Immigration Modernization Act,
7 including whether the foreign labor recruiter is reg-
8 istered pursuant to that section.”.

9 **SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.**

10 (a) **IN GENERAL.**—The Secretary of State shall en-
11 sure that each United States diplomatic mission has a per-
12 son who shall be responsible for receiving information
13 from any worker who has been subject to violations of this
14 subtitle.

15 (b) **PROVISION OF INFORMATION.**—The responsible
16 person referred to in subsection (a) shall ensure that the
17 information received is provided to the Department of Jus-
18 tice, the Department of Labor, or any other relevant Fed-
19 eral agency.

20 (c) **MECHANISMS.**—The Attorney General and the
21 Secretary shall ensure that there is a mechanism for any
22 actions that need to be taken in response to information
23 received under subsection (a).

24 (d) **ASSISTANCE FROM FOREIGN GOVERNMENT.**—
25 The person designated for receiving information pursuant

1 to this subsection is strongly encouraged to coordinate
2 with governments and civil society organizations in the
3 countries of origin to ensure the worker receives additional
4 support.

5 (e) MAINTENANCE AND AVAILABILITY OF INFORMA-
6 TION.—The Secretary of State shall ensure that con-
7 sultates maintain information regarding the identities of
8 foreign labor contractors and the employers to whom the
9 foreign labor contractors supply workers. The Secretary
10 of State shall make such information publically available
11 in written form and on-line, including on the websites of
12 United States embassies in the official language of that
13 country.

14 (f) ANNUAL PUBLIC DISCLOSE.—The Secretary of
15 State shall make publically available on-line, on an annual
16 basis, data disclosing the gender, country of origin and
17 state, if available, date of birth, wage, level of training,
18 and occupation category, disaggregated by job and by visa
19 category.

20 **SEC. 3610. ENFORCEMENT PROVISIONS.**

21 (a) COMPLAINTS AND INVESTIGATIONS.—The Sec-
22 retary—

23 (1) shall establish a process for the receipt, in-
24 vestigation, and disposition of complaints filed by
25 any person, including complaints respecting a for-

1 eign labor contractor's compliance with this subtitle;
2 and

3 (2) either pursuant to the process required by
4 paragraph (1) or otherwise, may investigate employ-
5 ers or foreign labor contractors, including actions oc-
6 curring in a foreign country, as necessary to deter-
7 mine compliance with this subtitle.

8 (b) ADMINISTRATIVE ENFORCEMENT.—

9 (1) IN GENERAL.—If the Secretary finds, after
10 notice and an opportunity for a hearing, any foreign
11 labor contractor or employer failed to comply with
12 any of the requirements of this subtitle, the Sec-
13 retary may impose the following against such con-
14 tractor or employer—

15 (A) a fine in an amount not more than
16 \$10,000 per violation; and

17 (B) upon the occasion of a third violation
18 or a failure to comply with representations, a
19 fine of not more than \$25,000 per violation.

20 (c) AUTHORITY TO ENSURE COMPLIANCE.—The Sec-
21 retary is authorized to take other such actions, including
22 issuing subpoenas and seeking appropriate injunctive re-
23 lief and recovery of damages, as may be necessary to as-
24 sure compliance with the terms and conditions of this sub-
25 title.

1 (d) ~~BONDING.~~—Pursuant to the bonding requirement
2 in section 3606, bond liquidation and forfeitures shall be
3 in addition to other remedies under this section or any
4 other law.

5 (e) ~~CIVIL ACTION.~~—

6 (1) ~~IN GENERAL.~~—The Secretary or any person
7 aggrieved by a violation of this subtitle may bring a
8 civil action against any foreign labor contractor or
9 employer that does not meet the requirements of
10 section (f)(2) in any court of competent jurisdic-
11 tion—

12 (A) to seek remedial action, including in-
13 junctive relief;

14 (B) to recover damages on behalf of any
15 worker harmed by a violation of this subsection;
16 and;

17 (C) to ensure compliance with require-
18 ments of this section.

19 (2) ~~ACTIONS BY THE SECRETARY OF LABOR.~~—

20 (A) ~~SUMS RECOVERED.~~—Any sums recov-
21 ered by the Secretary on behalf of a worker
22 under paragraph (1) or through liquidation of
23 the bond held pursuant to section 3606 shall be
24 held in a special deposit account and shall be
25 paid, on order of the Secretary, directly to each

1 worker affected. Any such sums not paid to a
2 worker because of inability to do so within a pe-
3 riod of 5 years shall be credited as an offsetting
4 collection to the appropriations account of the
5 Secretary for expenses for the administration of
6 this section and shall remain available to the
7 Secretary until expended or may be used for en-
8 forcement of the laws within the jurisdiction of
9 the wage and hour division or may be trans-
10 ferred to the Secretary of Health and Human
11 Services for the purpose of providing support to
12 programs that provide assistance to victims of
13 trafficking in persons or other exploited per-
14 sons. The Secretary shall work with any attor-
15 ney or organization representing workers to lo-
16 cate workers owed sums under this section.

17 (B) REPRESENTATION.—Except as pro-
18 vided in section 518(a) of title 28, United
19 States Code, the Solicitor of Labor may appear
20 for and represent the Secretary in any civil liti-
21 gation brought under this paragraph. All such
22 litigation shall be subject to the direction and
23 control of the Attorney General.

24 (3) ACTIONS BY INDIVIDUALS.—

1 (A) AWARD.—If the court finds in a civil
2 action filed by an individual under this section
3 that the defendant has violated any provision of
4 this subtitle (or any regulation issued pursuant
5 to this subtitle), the court may award—

6 (i) damages, up to and including an
7 amount equal to the amount of actual
8 damages, and statutory damages of up to
9 \$1,000 per plaintiff per violation, or other
10 equitable relief, except that with respect to
11 statutory damages—

12 (I) multiple infractions of a sin-
13 gle provision of this subtitle (or of a
14 regulation under this subtitles) shall
15 constitute only 1 violation for pur-
16 poses of section 3602(a) to determine
17 the amount of statutory damages due
18 a plaintiff; and

19 (II) if such complaint is certified
20 as a class action the court may
21 award—

22 (aa) damages up to an
23 amount equal to the amount of
24 actual damages; and

1 (bb) statutory damages of
2 no 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 ~~(f)~~ AGENCY LIABILITY.—

8 ~~(1)~~ IN GENERAL.—Beginning 180 days after
9 the Secretary of Labor has promulgated regulations
10 pursuant to section 3605(c), an employer who re-
11 tains the services of a foreign labor contractor shall
12 only use those foreign labor contractors who are reg-
13 istered under section 3605. An employer who uses a
14 foreign labor contractor who is not registered under
15 section 3605 after such time period, or who uses a
16 foreign labor contractor that has violated any provi-
17 sion of this subsection, shall be subject to the provi-
18 sions of this subsection for violations committed by
19 such foreign labor contractor to the same extent as
20 if the employer were the foreign labor contractor
21 who had committed the violation.

22 ~~(2)~~ SAFE HARBOR.—An employer shall not have
23 any liability under this section if the employer hires
24 workers referred by a foreign labor contractor that
25 has a valid registration with the Department of

1 Labor pursuant to section 3605, the employer does
2 not act with reckless disregard of the fact that the
3 foreign labor contractor has violated any provision of
4 this section, and if the employer obtained knowledge
5 of a violation of the provisions of this section, it im-
6 mediately reported the violation to the Secretary.

7 (3) LIABILITY FOR AGENTS.—Foreign labor
8 contractors shall be subject to the provisions of this
9 section for violations committed by the foreign labor
10 contractor's agents or subcontractees of any level in
11 relation to their foreign labor contracting activity to
12 the same extent as if the foreign labor contractor
13 had committed the violation.

14 (g) RETALIATION.—

15 (1) IN GENERAL.—No person shall intimidate,
16 threaten, restrain, coerce, discharge or in any other
17 manner discriminate or retaliate against any worker
18 or their family members (including a former em-
19 ployee or an applicant for employment) because such
20 worker disclosed information to any person that the
21 worker reasonably believes evidences a violation of
22 this section (or any rule or regulation pertaining to
23 this section), including seeking legal assistance of
24 counsel or cooperating with an investigation or other

1 proceeding concerning compliance with this section
2 (or any rule or regulation pertaining to this section).

3 (2) ENFORCEMENT.—An individual who is sub-
4 ject to any conduct described in paragraph (1) may,
5 in a civil action, recover appropriate relief, including
6 reasonable attorneys' fees and costs, with respect to
7 that violation. Any civil action under this subpara-
8 graph shall be stayed during the pendency of any
9 criminal action arising out of the violation.

10 (h) WAIVER OF RIGHTS.—Agreements by employees
11 purporting to waive or to modify their rights under this
12 subtitle shall be void as contrary to public policy.

13 (i) PRESENCE DURING PENDENCY OF ACTIONS.—

14 (1) IN GENERAL.—If other immigration relief is
15 not available, the Attorney General and the Sec-
16 retary of Homeland Security shall grant advance pa-
17 role to permit a nonimmigrant to remain legally in
18 the United States for time sufficient to fully and ef-
19 fectively participate in all legal proceedings related
20 to any action taken pursuant to this section.

21 (2) REGULATIONS.—Not later than 180 days
22 after the date of the enactment of this Act, the Sec-
23 retary shall promulgate regulations to carry out
24 paragraph (1).

1 **SEC. 3611. 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. 3612. REGULATIONS.**

6 The Secretary shall prescribe such regulations as may
7 be necessary to carry out this subtitle.

8 **Subtitle G—Interior Enforcement**

9 **SEC. 3701. CRIMINAL STREET GANGS.**

10 (a) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C.
11 1182(a)(2)) is amended—

12 (1) by redesignating subparagraph (F) as sub-
13 paragraph (L); and

14 (2) by inserting after subparagraph (E) the fol-
15 lowing:

16 “(F) ALIENS IN CRIMINAL STREET
17 GANGS.—

18 “(i) IN GENERAL.—Any alien is inad-
19 missible—

20 “(I) who has been convicted of
21 an offense for which an element was
22 active participation in a criminal
23 street gang (as defined in section
24 521(a) of title 18, United States
25 Code) and the alien—

1 “(aa) had knowledge that
2 the gang’s members engaged in
3 or have engaged in a continuing
4 series of offenses described in
5 section 521(e) of title 18, United
6 States Code; and

7 “(bb) acted with the inten-
8 tion to promote or further the fe-
9 lonious activities of the criminal
10 street gang or maintain or in-
11 crease his or her position in the
12 gang; or

13 “(H) subject to clause (ii), who is
14 18 years of age or older, who is phys-
15 ically present outside the United
16 States, whom the Secretary deter-
17 mines by clear and convincing evi-
18 dence, based upon law enforcement in-
19 formation deemed credible by the Sec-
20 retary, has, since the age of 18, know-
21 ingly and willingly participated in a
22 criminal street gang with knowledge
23 that such participation promoted or
24 furthered the illegal activity of the
25 gang.

1 “(ii) WAIVER.—The Secretary may
2 waive clause (i)(II) if the alien has re-
3 nounced all association with the criminal
4 street gang, is otherwise admissible, and is
5 not a threat to the security of the United
6 States.”.

7 (b) GROUNDS FOR DEPORTATION.—Section
8 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at
9 the end the following:

10 “(G) ALIENS ASSOCIATED WITH CRIMINAL
11 STREET GANGS.—Any alien is removable who
12 has been convicted of an offense for which an
13 element was active participation in a criminal
14 street gang (as defined in section 521(a) of title
15 18, United States Code), and the alien—

16 “(i) had knowledge that the gang’s
17 members engaged in or have engaged in a
18 continuing series of offenses described in
19 section 521(e) of title 18, United States
20 Code; and

21 “(ii) acted with the intention to pro-
22 mote or further the felonious activities the
23 criminal street gang or increase his or her
24 position in such gang.”.

1 (c) GROUND OF INELIGIBILITY FOR REGISTERED
2 PROVISIONAL IMMIGRANT STATUS.—

3 (1) IN GENERAL.—An alien who is 18 years of
4 age or older is ineligible for registered provisional
5 immigrant status if the Secretary determines that
6 the alien—

7 (A) has been convicted of an offense for
8 which an element was active participation in a
9 criminal street gang (as defined in section
10 521(a) of title 18, United States Code and the
11 alien—

12 (i) had knowledge that the gang's
13 members engaged in or have engaged in a
14 continuing series of offenses described in
15 section 521(e) of title 18, United States
16 Code; and

17 (ii) acted with the intention to pro-
18 mote or further the felonious activities of
19 the criminal street gang or maintain or in-
20 crease his or her position in such gang; or

21 (B) subject to paragraph (2), any alien
22 who is 18 years of age or older whom the Sec-
23 retary determines by clear and convincing evi-
24 dence, based upon law enforcement information
25 deemed credible by the Secretary, has, since the

1 age of 18, knowingly and willingly participated
2 in a such gang with knowledge that such par-
3 ticipation promoted or furthered the illegal ac-
4 tivity of such gang.

5 (2) WAIVER.—The Secretary may waive this
6 paragraph (1)(B) if the alien has renounced all asso-
7 ciation with the criminal street gang, is otherwise
8 admissible, and is not a threat to the security of the
9 United States.

10 **SEC. 3702. BANNING HABITUAL DRUNK DRIVERS FROM THE**
11 **UNITED STATES.**

12 (a) GROUNDS FOR INADMISSIBILITY.—Section
13 212(a)(2) (8 U.S.C. 1182), as amended by section 3401,
14 is further amended by inserting after subparagraph (I) the
15 following:

16 “(J) HABITUAL DRUNK DRIVERS.—An
17 alien convicted of 3 or more offenses on sepa-
18 rate dates, at least 1 of which occurred after
19 the date of the enactment of the Border Secu-
20 rity, Economic Opportunity, and Immigration
21 Modernization Act, related to driving under the
22 influence or driving while intoxicated is
23 inadmissable.”.

1 (b) GROUNDS FOR DEPORTATION.—Section
2 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at
3 the end the following:

4 “(G) HABITUAL DRUNK DRIVERS.—An
5 alien convicted of 3 or more offenses on sepa-
6 rate dates related to driving under the influence
7 or driving while intoxicated is deportable.”.

8 **SEC. 3703. SEXUAL ABUSE OF A MINOR.**

9 Section 101(a)(43)(A) (8 U.S.C. 1101(a)(43)(A)) is
10 amended by striking “murder, rape, or sexual abuse of
11 a minor;” and inserting “murder, rape, or sexual abuse
12 of a minor, whether or not the minority of the victim is
13 established by evidence contained in the record of convic-
14 tion or by credible evidence extrinsic to the record of con-
15 viction;”;

16 **SEC. 3704. ILLEGAL ENTRY.**

17 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is
18 amended to read as follows:

19 **“SEC. 275. ILLEGAL ENTRY.**

20 “(a) IN GENERAL.—

21 “(1) CRIMINAL OFFENSES.—An alien shall be
22 subject to the penalties set forth in paragraph (2) if
23 the alien—

24 “(A) enters or crosses the border into the
25 United States at any time or place other than

1 as designated by the Secretary of Homeland Se-
2 curity;

3 “(B) eludes examination or inspection by
4 an immigration officer, or a customs or agri-
5 culture inspection at a port of entry; or

6 “(C) enters or crosses the border to the
7 United States by means of a knowingly false or
8 misleading representation or the concealment of
9 a material fact.

10 “(2) CRIMINAL PENALTIES.—Any alien who
11 violates any provision under paragraph (1)—

12 “(A) shall, for the first violation, be fined
13 under title 18, United States Code, imprisoned
14 not more than 12 months, or both;

15 “(B) shall, for a second or subsequent vio-
16 lation, or following an order of voluntary depar-
17 ture, be fined under such title, imprisoned not
18 more than 3 years, or both;

19 “(C) if the violation occurred after the
20 alien had been convicted of 3 or more mis-
21 demeanors with the convictions occurring on
22 different dates or of a felony for which the alien
23 served a term of imprisonment of 15 days or
24 more, shall be fined under such title, impris-
25 oned not more than 10 years, or both; and

1 “(D) if the violation occurred after the
2 alien had been convicted of a felony for which
3 the alien was sentenced to a term of imprison-
4 ment of not less than 30 months,
5 shall be fined under such title, imprisoned not more
6 than 15 years, or both.

7 “(3) PRIOR CONVICTIONS.—The prior convic-
8 tions described in subparagraphs (C) and (D) of
9 paragraph (2) are elements of the offenses described
10 in that paragraph and the penalties in such subpara-
11 graphs shall apply only in cases in which the convic-
12 tion or convictions that form the basis for the addi-
13 tional penalty are—

14 “(A) alleged in the indictment or informa-
15 tion; and

16 “(B) proven beyond a reasonable doubt at
17 trial or admitted by the defendant under oath
18 as part of a plea agreement.

19 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
20 ALTIES.—Any alien older than 18 years of age who is ap-
21 prehended while knowingly entering, attempting to enter,
22 or crossing or attempting to cross the border to the United
23 States at a time or place other than as designated by im-
24 migration officers shall be subject to a civil penalty, in
25 addition to any criminal or other civil penalties that may

1 be imposed under any other provision of law, in an amount
2 equal to—

3 “(1) not less than \$250 or more than \$5000 for
4 each such entry, crossing, attempted entry, or at-
5 tempted crossing; or

6 “(2) twice the amount specified in paragraph
7 (1) if the alien had previously been subject to a civil
8 penalty under this subsection.”.

9 (b) **CLERICAL AMENDMENT.**—The table of contents
10 is amended by striking the item relating to section 275
11 and inserting the following:

“Sec. 275. Illegal entry.”.

12 (c) **EFFECTIVE DATE.**—The amendments made by
13 this section shall take effect one year after the date of
14 the enactment of this Act.

15 **SEC. 3705. REENTRY OF REMOVED ALIEN.**

16 Section 276 (8 U.S.C. 1326) is amended to read as
17 follows:

18 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

19 “(a) **REENTRY AFTER REMOVAL.**—Any alien who
20 has been denied admission, excluded, deported, or re-
21 moved, or who has departed the United States while an
22 order of exclusion, deportation, or removal is outstanding,
23 and subsequently enters, attempts to enter, crosses the
24 border to, attempts to cross the border to, or is at any
25 time found in the United States, shall be fined under title

1 18, United States Code, and imprisoned not more than
2 2 years.

3 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
4 withstanding the penalty provided in subsection (a), if an
5 alien described in that subsection—

6 “(1) was convicted for 3 or more misdemeanors,
7 with the convictions occurring on different dates, be-
8 fore such removal or departure, the alien shall be
9 fined under title 18, United States Code, and im-
10 prisoned not more than 10 years, or both;

11 “(2) was convicted for a felony before such re-
12 moval or departure for which the alien was sen-
13 tenced to a term of imprisonment of not less than
14 30 months, the alien shall be fined under such title,
15 and imprisoned not more than 15 years, or both;

16 “(3) was convicted for a felony before such re-
17 moval or departure for which the alien was sen-
18 tenced to a term of imprisonment of not less than
19 60 months, the alien shall be fined under such title,
20 and imprisoned not more than 20 years, or both;

21 “(4) was convicted for 3 felonies, with the con-
22 victions occurring on different dates before such re-
23 moval or departure, the alien shall be fined under
24 such title, and imprisoned not more than 20 years,
25 or both; or

1 ~~“(5)~~ was convicted, before such removal or de-
2 parture, for murder, rape, kidnapping, or a felony
3 offense described in chapter 77 (relating to peonage
4 and slavery) or 113B (relating to terrorism) of such
5 title, the alien shall be fined under such title, and
6 imprisoned not more than 20 years, or both.

7 ~~“(c) REENTRY AFTER REPEATED REMOVAL.—Any~~
8 alien who has been denied admission, excluded, deported,
9 or removed 3 or more times and thereafter enters, at-
10 tempts to enter, crosses the border to, attempts to cross
11 the border to, or is at any time found in the United States,
12 shall be fined under title 18, United States Code, and im-
13 prisoned not more than 10 years, or both.

14 ~~“(d) PROOF OF PRIOR CONVICTIONS.—The prior~~
15 convictions described in subsection (b) are elements of the
16 offenses described in that subsection, and the penalties in
17 such subsection shall apply only in cases in which the con-
18 viction or convictions that form the basis for the additional
19 penalty are—

20 ~~“(1)~~ alleged in the indictment or information;
21 and

22 ~~“(2)~~ proven beyond a reasonable doubt at trial
23 or admitted by the defendant under oath as part of
24 a plea agreement.

1 “(e) **AFFIRMATIVE DEFENSES.**—It shall be an af-
2 firmative defense to a violation of this section that—

3 “(1) prior to the alleged violation, the alien had
4 sought and received the express consent of the Sec-
5 retary of Homeland Security to reapply for admis-
6 sion into the United States; or

7 “(2) at the time of the prior exclusion, deporta-
8 tion, removal, or denial of admission alleged in the
9 violation, the alien had not yet reached 18 years of
10 age and had not been convicted of a crime or adju-
11 dicated a delinquent minor by a court of the United
12 States, or a court of a state or territory, for conduct
13 that would constitute a felony if committed by an
14 adult.

15 “(f) **LIMITATION ON COLLATERAL ATTACK ON UN-**
16 **DERLYING DEPORTATION ORDER.**—In a criminal pro-
17 ceeding under this section, an alien may not challenge the
18 validity of the deportation order described in subsection
19 (a) or subsection (e) unless the alien demonstrates that—

20 “(1) the alien exhausted any administrative
21 remedies that may have been available to seek relief
22 against the order;

23 “(2) the deportation proceedings at which the
24 order was issued improperly deprived the alien of the
25 opportunity for judicial review; and

1 ~~“(3) the entry of the order was fundamentally~~
2 ~~unfair.~~

3 ~~“(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-~~
4 ~~PLETION OF TERM OF IMPRISONMENT.—Any alien re-~~
5 ~~moved pursuant to section 241(a)(4) who enters, attempts~~
6 ~~to enter, crosses the border to, attempts to cross the bor-~~
7 ~~der to, or is at any time found in, the United States shall~~
8 ~~be incarcerated for the remainder of the sentence of im-~~
9 ~~prisonment which was pending at the time of deportation~~
10 ~~without any reduction for parole or supervised release un-~~
11 ~~less the alien affirmatively demonstrates that the Sec-~~
12 ~~retary of Homeland Security has expressly consented to~~
13 ~~the alien’s reentry or the alien is prima facie eligible for~~
14 ~~protection from removal. Such alien shall be subject to~~
15 ~~such other penalties relating to the reentry of removed~~
16 ~~aliens as may be available under this section or any other~~
17 ~~provision of law.~~

18 ~~“(h) LIMITATION.—It is not aiding and abetting a~~
19 ~~violation of this section for an individual to provide an~~
20 ~~alien with emergency humanitarian assistance, including~~
21 ~~emergency medical care and food, or to transport the alien~~
22 ~~to a location where such assistance can be rendered with-~~
23 ~~out compensation or the expectation of compensation.~~

24 ~~“(i) DEFINITIONS.—In this section:~~

1 “(1) **FELONY.**—The term ‘felony’ means any
2 criminal offense punishable by a term of imprison-
3 ment of more than 1 year under the laws of the
4 United States, any State, or a foreign government.

5 “(2) **MISDEMEANOR.**—The term ‘misdemeanor’
6 means any criminal offense punishable by a term of
7 imprisonment of not more than 1 year under the ap-
8 plicable laws of the United States, any State, or a
9 foreign government.

10 “(3) **REMOVAL.**—The term ‘removal’ includes
11 any denial of admission, exclusion, deportation, or
12 removal, or any agreement by which an alien stipu-
13 lates or agrees to exclusion, deportation, or removal.

14 “(4) **STATE.**—The term ‘State’ means a State
15 of the United States, the District of Columbia, and
16 any commonwealth, territory, or possession of the
17 United States.”.

18 **SEC. 3706. PENALTIES RELATED TO REMOVAL.**

19 (a) **PENALTIES RELATING TO VESSELS AND AIR-**
20 **CRAFT.**—Section 243(e) (8 U.S.C. 1253(e)) is amended—

21 (1) by striking “Attorney General” each place
22 such term appears and inserting “Secretary of
23 Homeland Security”; and

1 (2) by striking “Commissioner” each place such
2 term appears and inserting “Secretary of Homeland
3 Security”; and

4 (3) in paragraph (1)—

5 (A) in subparagraph (A), by striking
6 “\$2,000” and inserting “\$5,000”;

7 (B) in subparagraph (B), by striking
8 “\$5,000” and inserting “\$10,000”;

9 (C) by amending paragraph (1)(C) to read
10 as follows:

11 “(C) COMPROMISE.—The Secretary of
12 Homeland Security, in the Secretary’s
13 unreviewable discretion and upon the receipt of
14 a written request, may mitigate the monetary
15 penalties required under this subsection for
16 each alien stowaway to an amount equal to not
17 less than \$2,000, upon such terms that the Sec-
18 retary determines to be appropriate.”; and

19 (D) by inserting at the end the following:

20 “(D) EXCEPTION.—A person, acting with-
21 out compensation or the expectation of com-
22 pensation, is not subject to penalties under this
23 paragraph if the person is—

24 “(i) providing, or attempting to pro-
25 vide, an alien with humanitarian assist-

1 ance, including emergency medical care or
2 food or water; or
3 “~~(ii)~~ transporting the alien to a loca-
4 tion where such humanitarian assistance
5 can be rendered without compensation or
6 the expectation of compensation.”.

7 **SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
8 **FRAUD OFFENSES.**

9 (a) **TRAFFICKING IN PASSPORTS.**—Section 1541 of
10 title 18, United States Code, is amended to read as fol-
11 lows:

12 **“§ 1541. Trafficking in passports**

13 “~~(a)~~ **MULTIPLE PASSPORTS.**—Subject to subsection
14 ~~(b)~~, any person who, during any period of 3 years or less,
15 knowingly—

16 “~~(1)~~ and without lawful authority produces,
17 issues, or transfers 3 or more passports;

18 “~~(2)~~ forges, counterfeits, alters, or falsely
19 makes 3 or more passports;

20 “~~(3)~~ secures, possesses, uses, receives, buys,
21 sells, or distributes 3 or more passports, knowing
22 the passports to be forged, counterfeited, altered,
23 falsely made, stolen, procured by fraud, or produced
24 or issued without lawful authority; or

1 “(4) completes, mails, prepares, presents, signs,
2 or submits 3 or more applications for a United
3 States passport, knowing the applications to contain
4 any materially false statement or representation;
5 shall be fined under this title, imprisoned not more than
6 20 years, or both.

7 “(b) USE IN A TERRORISM OFFENSE.—Any person
8 who commits an offense described in subsection (a) to fa-
9 cilitate an act of international terrorism (as defined in sec-
10 tion 2331) shall be fined under this title, imprisoned not
11 more than 25 years, or both.

12 “(c) PASSPORT MATERIALS.—Any person who know-
13 ingly and without lawful authority produces, buys, sells,
14 possesses, or uses any official material (or counterfeit of
15 any official material) used to make 10 or more passports,
16 including any distinctive paper, seal, hologram, image,
17 text, symbol, stamp, engraving, or plate, shall be fined
18 under this title, imprisoned not more than 20 years, or
19 both.”.

20 (b) FALSE STATEMENT IN AN APPLICATION FOR A
21 PASSPORTS.—Section 1542 of title 18, United States
22 Code, is amended to read as follows:

1 **“§ 1542. False statement in an application for a pass-**
2 **port**

3 “(a) IN GENERAL.—Any person who knowingly
4 makes any material false statement or representation in
5 an application for a United States passport, or mails, pre-
6 pares, presents, or signs an application for a United
7 States passport knowing the application to contain any
8 material false statement or representation, shall be fined
9 under this title, imprisoned not more than 25 years (if
10 the offense was committed to facilitate an act of inter-
11 national terrorism (as defined in section 2331 of this
12 title)), 20 years (if the offense was committed to facilitate
13 a drug trafficking crime (as defined in section 929(a) of
14 this title)), or 15 years (in the case of any other offense)
15 or both.

16 “(b) VENUE.—

17 “(1) IN GENERAL.—An offense under sub-
18 section (a) may be prosecuted in any district—

19 “(A) in which the false statement or rep-
20 resentation was made or the application for a
21 United States passport was prepared or signed;
22 or

23 “(B) in which or to which the application
24 was mailed or presented.

25 “(2) OFFENSES OUTSIDE THE UNITED
26 STATES.—An offense under subsection (a) involving

1 an application prepared and adjudicated outside the
2 United States may be prosecuted in the district in
3 which the resultant passport was or would have been
4 produced.

5 “(e) SAVINGS CLAUSE.—Nothing in this section may
6 be construed to limit the venue otherwise available under
7 sections 3237 and 3238 of this title.”

8 (e) MISUSE OF A PASSPORT.—Section 1544 of title
9 18, United States Code, is amended to read as follows:

10 **“§ 1544. Misuse of a passport**

11 “Any person who knowingly—

12 “(1) misuses for their own purposes any pass-
13 port issued or designed for the use of another;

14 “(2) uses any passport in violation of the laws,
15 regulations, or rules governing the issuance and use
16 of the passport;

17 “(3) secures, possesses, uses, receives, buys,
18 sells, or distributes any passport knowing the pass-
19 port to be forged, counterfeited, altered, falsely
20 made, procured by fraud, or produced or issued
21 without lawful authority; or

22 “(4) substantially violates the terms and condi-
23 tions of any safe conduct duly obtained and issued
24 under the authority of the United States;

1 shall be fined under this title, imprisoned not more than
2 25 years (if the offense was committed to facilitate an act
3 of international terrorism (as defined in section 2331 of
4 this title)), 20 years (if the offense was committed to fa-
5 cilitate a drug trafficking crime (as defined in section
6 929(a) of this title)) or 15 years (in the case of any other
7 offense), or both.”.

8 (d) SCHEMES TO PROVIDE FRAUDULENT IMMIGRA-
9 TION SERVICES.—Section 1545 of title 18, United States
10 Code, is amended to read as follows:

11 “§ 1545. Schemes to provide fraudulent immigration
12 services

13 “(a) IN GENERAL.—Any person who knowingly exe-
14 cutes a scheme or artifice, in connection with any matter
15 that is authorized by or arises under any Federal immigra-
16 tion law or any matter the offender claims or represents
17 is authorized by or arises under any Federal immigration
18 law, to—

19 “(1) defraud any person; or

20 “(2) obtain or receive money or anything else of
21 value from any person by means of false or fraudu-
22 lent pretenses, representations, or promises;

23 shall be fined under this title, imprisoned not more than
24 10 years, or both.

1 “(b) MISREPRESENTATION.—Any person who know-
2 ingly and falsely represents that such person is an attor-
3 ney or an accredited representative (as that term is de-
4 fined in section 1292.1 of title 8, Code of Federal Regula-
5 tions (or any successor regulation)) in any matter arising
6 under any Federal immigration law shall be fined under
7 this title, imprisoned not more than 15 years, or both.”.

8 (e) IMMIGRATION AND VISA FRAUD.—Section 1546
9 of title 18, United States Code, is amended—

10 (1) by amending the section heading to read as
11 follows:

12 **“§ 1546. Immigration and visa fraud”;**

13 and

14 (2) by striking subsections (b) and (c) and in-
15 serting the following:

16 “(b) TRAFFICKING.—Any person who, during any pe-
17 riod of 3 years or less, knowingly—

18 “(1) and without lawful authority produces,
19 issues, or transfers 3 or more immigration docu-
20 ments;

21 “(2) forges, counterfeits, alters, or falsely
22 makes 3 or more immigration documents;

23 “(3) secures, possesses, uses, buys, sells, or dis-
24 tributes 3 or more immigration documents, knowing
25 the immigration documents to be forged, counter-

1 feited, altered, stolen, falsely made, procured by
2 fraud, or produced or issued without lawful author-
3 ity; or

4 “(4) completes, mails, prepares, presents, signs,
5 or submits 3 or more immigration documents know-
6 ing the documents to contain any materially false
7 statement or representation;

8 shall be fined under this title, imprisoned not more than
9 20 years, or both.

10 “(e) IMMIGRATION DOCUMENT MATERIALS.—Any
11 person who knowingly and without lawful authority pro-
12 duces, buys, sells, possesses, or uses any official material
13 (or counterfeit of any official material) used to make 10
14 or more immigration documents, including any distinctive
15 paper, seal, hologram, image, text, symbol, stamp, engrav-
16 ing, or plate, shall be fined under this title, imprisoned
17 not more than 20 years, or both.”.

18 (f) ALTERNATIVE IMPRISONMENT MAXIMUM FOR
19 CERTAIN OFFENSES.—Section 1547 of title 18, United
20 States Code, is amended—

21 (1) in the matter preceding paragraph (1), by
22 striking “(other than an offense under section
23 1545)”; and

24 (2) in paragraph (1), by striking “15” and in-
25 serting “20”; and

1 (3) in paragraph (2), by striking “20” and in-
2 serting “25”.

3 (g) AUTHORIZED LAW ENFORCEMENT ACTIVITIES.—

4 Chapter 75 of title 18, United States Code, is amended
5 by adding after section 1547 the following:

6 **“§ 1548. Authorized law enforcement activities**

7 “Nothing in this chapter may be construed to pro-
8 hibit—

9 “(1) any lawfully authorized investigative, pro-
10 tective, or intelligence activity of a law enforcement
11 agency of the United States, a State, or a political
12 subdivision of a State, or an intelligence agency of
13 the United States; or

14 “(2) any activity authorized under title V of the
15 Organized Crime Control Act of 1970 (Public Law
16 91-452; 84 Stat. 933).”.

17 (h) TABLE OF SECTIONS AMENDMENT.—The table
18 of sections for chapter 75 of title 18, United States Code,
19 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.”.

1 **SEC. 3708. COMBATING SCHEMES TO DEFRAUD ALIENS.**

2 (a) **REGULATIONS, FORMS, AND PROCEDURES.**—The
3 Secretary and the Attorney General, for matters within
4 their respective jurisdictions arising under the immigra-
5 tion laws, shall promulgate appropriate regulations, forms,
6 and procedures defining the circumstances in which—

7 (1) persons submitting applications, petitions,
8 motions, or other written materials relating to immi-
9 gration benefits or relief from removal under the im-
10 migration laws will be required to identify who
11 (other than immediate family members) assisted
12 them in preparing or translating the immigration
13 submissions; and

14 (2) any person or persons who received com-
15 pensation (other than a nominal fee for copying,
16 mailing, or similar services) in connection with the
17 preparation, completion, or submission of such mate-
18 rials will be required to sign the form as a preparer
19 and provide identifying information.

20 (b) **CIVIL INJUNCTIONS AGAINST IMMIGRATION**
21 **SERVICE PROVIDER.**—The Attorney General may com-
22 mence a civil action in the name of the United States to
23 enjoin any immigration service provider from further en-
24 gaging in any fraudulent conduct that substantially inter-
25 feres with the proper administration of the immigration
26 laws or who willfully misrepresents such provider's legal

1 authority to provide representation before the Department
2 of Justice or Department.

3 (c) DEFINITIONS.—In this section:

4 (1) IMMIGRATION LAWS.—The term “immigra-
5 tion laws” has the meaning given that term in sec-
6 tion 101(a)(17) of the Immigration and Nationality
7 Act (8 U.S.C. 1101(a)(17)).

8 (2) IMMIGRATION SERVICE PROVIDER.—The
9 term “immigration service provider” means any indi-
10 vidual or entity (other than an attorney or individual
11 otherwise authorized to provide representation in im-
12 migration proceedings as provided in Federal regula-
13 tion) who, for a fee or other compensation, provides
14 any assistance or representation to aliens in relation
15 to any filing or proceeding relating to the alien
16 which arises, or which the provider claims to arise,
17 under the immigration laws, executive order, or pres-
18 idential proclamation.

19 **SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT**
20 **AND IMMIGRATION FRAUD OFFENSES.**

21 (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8
22 U.S.C. 1182(a)(2)(A)(i)) is amended—

23 (1) in subclause (I), by striking “, or” at the
24 end and inserting a semicolon;

1 (2) in subclause (H), by striking the comma at
2 the end and inserting “; or”; and

3 (3) by inserting after subclause (H) the fol-
4 lowing:

5 “(III) a violation of section 1541,
6 1545, and subsection (b) of section
7 1546 of title 18, United States
8 Code.”.

9 (b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C.
10 1227(a)(3)(B)(iii)) is amended to read as follows:

11 “(ii) a violation of section 1541, 1545,
12 and subsection (b) of section 1546 of title
13 18, United States Code.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 subsections (a) and (b) shall apply to proceedings pending
16 on or after the date of the enactment of this Act, with
17 respect to conduct occurring on or after that date.

18 **SEC. 3710. DIRECTIVES RELATED TO PASSPORT AND DOCU-**
19 **MENT FRAUD.**

20 (a) DIRECTIVE TO THE UNITED STATES SEN-
21 TENCING COMMISSION.—

22 (1) IN GENERAL.—Pursuant to the authority
23 under section 994 of title 28, United States Code,
24 the United States Sentencing Commission shall pro-
25 mulgate or amend the sentencing guidelines, policy

1 statements, and official commentaries, if appro-
2 priate, related to passport fraud offenses, including
3 the offenses described in chapter 75 of title 18,
4 United States Code, as amended by section 3407, to
5 reflect the serious nature of such offenses.

6 (2) REPORT.—Not later than 1 year after the
7 date of the enactment of this Act, the United States
8 Sentencing Commission shall submit a report on the
9 implementation of this subsection to—

10 (A) the Committee on the Judiciary of the
11 Senate; and

12 (B) the Committee on the Judiciary of the
13 House of Representatives.

14 (b) PROTECTION FOR LEGITIMATE REFUGEES AND
15 ASYLUM SEEKERS.—

16 (1) IN GENERAL.—

17 (A) REQUIREMENT FOR GUIDELINES.—

18 The Attorney General, in consultation with the
19 Secretary, shall develop binding prosecution
20 guidelines for Federal prosecutors to ensure
21 that each prosecution of an alien seeking entry
22 into the United States by fraud is consistent
23 with the United States treaty obligations under
24 Article 31(1) of the Convention Relating to the
25 Status of Refugees, done at Geneva July 28,

1 1951 (as made applicable by the Protocol Relat-
2 ing to the Status of Refugees, done at New
3 York January 31, 1967 (19 UST 6223)).

4 (B) NO PRIVATE RIGHT OF ACTION.—The
5 guidelines developed pursuant to subparagraph
6 (A), and any internal office procedures related
7 to such guidelines—

8 (i) are intended solely for the guid-
9 ance of attorneys of the United States; and

10 (ii) are not intended to, do not, and
11 may not be relied upon to, create any right
12 or benefit, substantive or procedural, en-
13 forceable at law by any party in any ad-
14 ministrative, civil, or criminal matter.

15 (2) PROTECTION OF VULNERABLE PERSONS.—

16 A person described in paragraph (3) may not be
17 prosecuted under chapter 75 of title 18, United
18 States Code, or under section 275 or 276 of the Im-
19 migration and Nationality Act (8 U.S.C. 1325 and
20 1326), in connection with the person's entry or at-
21 tempted entry into the United States until after the
22 date on which the person's application for such pro-
23 tection, classification, or status has been adjudicated
24 and denied in accordance with the Immigration and
25 Nationality Act (8 U.S.C. 1101 et seq.).

1 ~~(3) PERSONS SEEKING PROTECTION, CLASSI-~~
2 ~~FICATION, OR STATUS.—~~A person described in this
3 ~~paragraph is a person who—~~

4 ~~(A) is seeking protection, classification, or~~
5 ~~status; and~~

6 ~~(B)(i) has filed an application for asylum~~
7 ~~under section 208 of the Immigration and Na-~~
8 ~~tionality Act (8 U.S.C. 1158), withholding of~~
9 ~~removal under section 241(b)(3) of such Act (8~~
10 ~~U.S.C. 1231(b)(3)), or relief under the Conven-~~
11 ~~tion against Torture and Other Cruel, Inhuman~~
12 ~~or Degrading Treatment or Punishment, done~~
13 ~~at New York, December 10, 1994, pursuant to~~
14 ~~title 8, Code of Federal Regulations;~~

15 ~~(ii) indicates immediately after apprehen-~~
16 ~~sion, that he or she intends to apply for such~~
17 ~~asylum, withholding of removal, or relief and~~
18 ~~promptly files the appropriate application;~~

19 ~~(iii) has been referred for a credible fear~~
20 ~~interview, a reasonable fear interview, or an~~
21 ~~asylum-only hearing under section 235 of the~~
22 ~~Immigration and Nationality Act (8 U.S.C.~~
23 ~~1225) or title 8, Code of Federal Regulations;~~
24 ~~or~~

1 (iv) has filed an application for classifica-
2 tion or status under—

3 (I) subparagraph (T) or (U) of para-
4 graph (15); paragraph (27)(J), or para-
5 graph (51) of section 101(a) of the Immigra-
6 tion and Nationality Act (8 U.S.C.
7 1101(a)); or

8 (II) section 216(e)(4)(C) or
9 240A(b)(2), of such Act (8 U.S.C.
10 1186a(e)(4)(C) and 1229b(b)(2)).

11 **SEC. 3711. INADMISSIBLE ALIENS.**

12 (a) **DETERRING ALIENS ORDERED REMOVED FROM**
13 **REMAINING IN THE UNITED STATES UNLAWFULLY.—**
14 Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amend-
15 ed—

16 (1) in clause (i), by striking “seeks admission
17 within 5 years of the date of such removal (or within
18 20 years” and inserting “seeks admission not later
19 than 5 years after the date of the alien’s removal (or
20 not later than 20 years after the alien’s removal”;
21 and

22 (2) in clause (ii), by striking “seeks admission
23 within 10 years of the date of such alien’s departure
24 or removal (or within 20 years of” and inserting
25 “seeks admission not later than 10 years after the

1 date of the alien's departure or removal (or not later
2 than 20 years after".

3 (b) BIOMETRIC SCREENING.—Section 212 (8 U.S.C.
4 1182) is amended—

5 (1) in subsection (a)(7), by adding at the end
6 the following:

7 “(C) WITHHOLDING INFORMATION.—Ex-
8 cept as provided in subsection (d)(2), any alien
9 who willfully, through his or her own fault, re-
10 fuses to comply with a lawful request for bio-
11 metric information is inadmissible.”; and

12 (2) in subsection (d), by inserting after para-
13 graph (1) the following:

14 “(2) The Secretary may waive the application
15 of subsection (a)(7)(C) for an individual alien or a
16 class of aliens.”.

17 (c) PRECLUDING ADMISSIBILITY OF ALIENS CON-
18 VICTED OF SERIOUS CRIMINAL OFFENSES AND DOMESTIC
19 VIOLENCE, STALKING, CHILD ABUSE AND VIOLATION OF
20 PROTECTION ORDERS.—

21 (1) INADMISSIBILITY ON CRIMINAL AND RE-
22 LATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C.
23 1182), as amended by section 3302, is further
24 amended—

1 (A) in subsection (a)(2), as amended by
2 sections 3401 and 3402, is further amended by
3 inserting after subparagraph (J) the following:

4 “(K) CRIMES OF DOMESTIC VIOLENCE,
5 STALKING, OR VIOLATION OF PROTECTIVE OR-
6 DERS; CRIMES AGAINST CHILDREN.—

7 “(i) DOMESTIC VIOLENCE, STALKING,
8 AND CHILD ABUSE.—

9 “(I) IN GENERAL.—Any alien
10 who has been convicted of a crime of
11 domestic violence, a crime of stalking,
12 or a crime of child abuse, child ne-
13 glect, or child abandonment, provided
14 the alien served at least 1 year impris-
15 onment for the crime, or provided the
16 alien was convicted of offenses consti-
17 tuting more than 1 such crime, not
18 arising out of a single scheme of
19 criminal misconduct, is inadmissible.

20 “(II) CRIME OF DOMESTIC VIO-
21 LENCE DEFINED.—In this clause, the
22 term ‘crime of domestic violence’
23 means any crime of violence (as de-
24 fined in section 16 of title 18, United
25 States Code) against a person com-

1 mitted by a current or former spouse
2 of the person; by an individual with
3 whom the person shares a child in
4 common; by an individual who is co-
5 habiting with or has cohabited with
6 the person as a spouse; by an indi-
7 vidual similarly situated to a spouse
8 of the person under the domestic or
9 family violence laws of the jurisdiction
10 where the offense occurs; or by any
11 other individual against a person who
12 is protected from that individual's
13 acts under the domestic or family vio-
14 lence laws of the United States or any
15 State, Indian tribal government, or
16 unit of local or foreign government.

17 “(ii) VIOLATORS OF PROTECTION OR-
18 DERS.—

19 “(I) IN GENERAL.—Any alien
20 who at any time is enjoined under a
21 protection order issued by a court and
22 whom the court determines has en-
23 gaged in conduct that constitutes
24 criminal contempt of the portion of a
25 protection order that involves protec-

1 tion against credible threats of vio-
2 lence, repeated harassment, or bodily
3 injury to the person or persons for
4 whom the protection order was issued,
5 is inadmissible.

6 “(II) PROTECTION ORDER DE-
7 FINED.—In this clause, the term ‘pro-
8 tection order’ means any injunction
9 issued for the purpose of preventing
10 violent or threatening acts of domestic
11 violence, including temporary or final
12 orders issued by civil or criminal
13 courts (other than support or child
14 custody orders or provisions) whether
15 obtained by filing an independent ac-
16 tion or as an independent order in an-
17 other proceeding.

18 “(iii) APPLICABILITY.—This subpara-
19 graph shall not apply to an alien who has
20 been battered or subjected to extreme cru-
21 elty and who is not and was not the pri-
22 mary perpetrator of violence in the rela-
23 tionship, upon a determination by the At-
24 torney General or the Secretary of Home-
25 land Security that—

1 ~~“(I) the alien was acting in self-~~
2 ~~defense;~~

3 ~~“(II) the alien was found to have~~
4 ~~violated a protection order intended to~~
5 ~~protect the alien; or~~

6 ~~“(III) the alien committed, was~~
7 ~~arrested for, was convicted of, or pled~~
8 ~~guilty to committing a crime that did~~
9 ~~not result in serious bodily injury.”;~~

10 ~~(B) in subsection (h)—~~

11 ~~(i) by striking “The Attorney General~~
12 ~~may, in his discretion, waive the applica-~~
13 ~~tion of subparagraphs (A)(i)(I), (B), (D),~~
14 ~~and (E) of subsection (a)(2)” and inserting~~
15 ~~“The Attorney General or the Secretary of~~
16 ~~Homeland Security may waive the applica-~~
17 ~~tion of subparagraphs (A)(i)(I), (B), (D),~~
18 ~~(E), of subsection (a)(2)”;~~ and

19 ~~(ii) by inserting “or Secretary of~~
20 ~~Homeland Security” after “the Attorney~~
21 ~~General” each place that term appears.~~

22 ~~(2) EFFECTIVE DATE.—The amendments made~~
23 ~~by this subsection shall apply to any acts that oc-~~
24 ~~curred on or after the date of the enactment of this~~
25 ~~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 one 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 or 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(e) 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 (e) STATUTE OF LIMITATIONS.—Section 2298 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 bail or recognizance is
23 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 this Act except for aliens detained under sec-
2 tion 236A of the Immigration and Nationality 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 to serve as detention, including the
7 use of electronic ankle 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 non-compliance, 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 ~~(c) 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 determination 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 seven days (including weekends and holi-
8 days) 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 no more than 14 days.

14 “(5) Except for aliens that the immigration
15 judge has determined are deportable as described in
16 section 236A and 236(c), the immigration judge
17 shall review the custody determination de novo and
18 may detain the alien only if the Secretary dem-
19 onstrates that no conditions, including the use of al-
20 ternatives to detention that maintain custody over
21 the alien, will reasonably assure the appearance of
22 the alien as required and the safety of any other
23 person and the community. For aliens detained
24 under 236(c), the immigration judge may review the
25 custody determination if the Secretary agrees the

1 alien is not a danger to the community and alter-
2 natives to detention exist that assure the appearance
3 of the alien as required and the safety of any other
4 person and the community.

5 “(6) In the case of any alien remaining in cus-
6 tody after a custody determination, the Attorney
7 General shall provide de novo custody determination
8 hearings before an immigration judge every 90 days
9 so long as the alien remains in custody. The alien
10 may obtain a de novo custody redetermination hear-
11 ing upon a showing of good cause.

12 “(7) The Secretary shall inform the alien of his
13 or her rights under this paragraph at the time the
14 alien is first taken into custody.”.

15 (b) STIPULATED REMOVAL.—Section 240(d) (8
16 U.S.C. 1229a) is amended to read as follows:

17 “(d) STIPULATED REMOVAL.—The Attorney General
18 shall provide by regulation for the entry by an immigration
19 judge of an order of removal stipulated to by the alien
20 (or the alien’s representative) and the Service. An immi-
21 gration judge may enter a stipulated removal order only
22 upon a finding at an in-person hearing that the stipulation
23 is voluntary, knowing and intelligent. A stipulated order
24 shall constitute a conclusive determination of the alien’s
25 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(e), 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)(iii) of the Immigration and Nationality Act
24 (8 U.S.C. 1182(a)(3)(E)(iii)) is amended to read as fol-
25 lows:

1 “(iii) COMMISSION OF ACTS OF TOR-
2 TURE, EXTRAJUDICIAL KILLINGS, WAR
3 CRIMES, OR WIDESPREAD OR SYSTEMATIC
4 ATTACKS ON CIVILIANS.—Any alien who
5 planned, ordered, assisted, aided and abet-
6 ted, committed, or otherwise participated,
7 including through command responsibility,
8 in the commission of—

9 “(I) any act of torture (as de-
10 fined in section 2340 of title 18,
11 United States Code);

12 “(II) any extrajudicial killing (as
13 defined in section 3(a) of the Torture
14 Victim Protection Act of 1991 (28
15 U.S.C. 1350 note)) under color of law
16 of any foreign nation;

17 “(III) a war crime (as defined in
18 section 2441 of title 18, United States
19 Code); or

20 “(IV) a widespread or systematic
21 attack directed against a civilian pop-
22 ulation, with knowledge of the attack,
23 murder, extermination, enslavement,
24 forcible transfer of population, arbi-
25 trary detention, rape, sexual slavery,

1 enforced prostitution, forced preg-
2 nancy, enforced sterilization, or any
3 other form of sexual violence of com-
4 parable gravity;

5 “(V) persecution on political ra-
6 cial, national, ethnic, cultural, reli-
7 gious, or gender grounds;

8 “(VI) enforced disappearance of
9 persons; or

10 “(VII) other inhumane acts of a
11 similar character intentionally causing
12 great suffering or serious bodily or
13 mental injury;

14 is inadmissible.”

15 (b) NONAPPLICABILITY OF CONFIDENTIALITY RE-
16 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
17 President may make public, without regard to the require-
18 ments under section 222(f) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1202(f)), with respect to confiden-
20 tiality of records pertaining to the issuance or refusal of
21 visas or permits to enter the United States, the names
22 of aliens deemed inadmissible on the basis of section
23 212(a)(3)(E)(iii) of the Immigration and Nationality Act,
24 as amended by subsection (a).

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—

16 “(i) 110,000 for the first fiscal year
17 beginning after the date of the enactment
18 the Border Security, Economic Oppor-
19 tunity, and Immigration Modernization
20 Act; and

21 “(ii) the number calculated under
22 paragraph (9) for succeeding fiscal year;
23 or”;

24 (2) by redesignating paragraph (10) as sub-
25 paragraph (D) of paragraph (9);

1 (3) by redesignating paragraph (9) as para-
2 graph (10); and

3 (4) by inserting after paragraph (8) the fol-
4 lowing:

5 “(9)(A) Except as provided in subparagraphs (B)
6 and (C), the allocation of nonimmigrant visas under sec-
7 tion 101(a)(15)(H)(i)(b) for each fiscal year after the first
8 fiscal year beginning after the date of the enactment of
9 the Border Security, Economic Opportunity, and Immi-
10 gration Modernization Act shall be equal to the sum of—

11 “(i) the allocation of such visas for the most re-
12 cently completed fiscal year; and

13 “(ii) the product of—

14 “(I) the allocation of such visas for the
15 most recently completed fiscal year; multiplied
16 by

17 “(II) the High Skilled Jobs Demand Index
18 for such fiscal year calculated under subpara-
19 graph (C).

20 “(B)(i) The number of visas calculated under sub-
21 paragraph (A) for any fiscal year shall not be less than
22 110,000 or more than 180,000.

23 “(ii) The number of visas calculated under subpara-
24 graph (A) for any fiscal year may not be more than 10,000

1 more than, or less than 10,000 less than, the allocation
2 of such visas for the previous fiscal year.

3 “(C) The High Skilled Jobs Demand Index calculated
4 under this subparagraph for a fiscal year is the percentage
5 equal to the sum of—

6 “(i) $\frac{1}{2}$ of a fraction—

7 “(I) the numerator of which is the number
8 of nonimmigrant visas under section
9 101(a)(15)(H)(i)(b) petitioned for during the
10 previous fiscal year minus the numerical limita-
11 tion of such visas determined under paragraph
12 (1) for the previous fiscal year; and

13 “(II) the denominator of which is the nu-
14 merical limitation of such visas determined
15 under paragraph (1) for the previous fiscal
16 year; and

17 “(ii) $\frac{1}{2}$ of a fraction—

18 “(I) the numerator of which is the average
19 number of specified unemployed persons for the
20 previous fiscal year minus the average number
21 of specified unemployed persons for such fiscal
22 year; and

23 “(II) the denominator of which is the aver-
24 age number of specified unemployed persons for
25 such fiscal year.

1 “(D) If the actual number of visas under section
2 101(a)(15)(H)(i)(b) applied for during a previous fiscal
3 year is not available at the time the Secretary determines
4 the numerical limitation under subparagraph (C) for the
5 following fiscal year, the Secretary may estimate such
6 number based on a statistical extrapolation of the number
7 of applications for such visas received at the time such
8 estimate is made.

9 “(E) For purposes of subparagraph (C), the term
10 ‘specified unemployed persons’ means, with respect to any
11 fiscal year, the number of unemployed persons in the
12 ‘management, professional, and related occupations’ cat-
13 egory of the employment report released by the Bureau
14 of Labor Statistics.”.

15 (b) INCREASE IN ALLOCATION FOR STEM NON-
16 IMMIGRANTS.—Section 214(g)(5)(C) (8 U.S.C.
17 1184(g)(5)(C)) is amended to read as follows:

18 “(C) has earned a master’s or higher, in a field
19 of science, technology, engineering, or math included
20 in the Department of Education’s Classification of
21 Instructional Programs taxonomy within the sum-
22 mary groups of computer and information sciences
23 and support services, engineering, mathematics and
24 statistics, and physical sciences, from a United
25 States institution of higher education (as defined in

1 section 101(a) of the Higher Education Act of 1965
2 (20 U.S.C. 1001(a)) until the number of aliens who
3 are exempted from such numerical limitation during
4 such year exceed 25,000.”.

5 (c) PUBLICATION.—

6 (1) DATA SUMMARIZING PETITIONS.—The Sec-
7 retary shall timely upload to a public website data
8 that summarizes the adjudication of nonimmigrant
9 petitions under section 101(a)(15)(H)(i)(b) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1101(a)(15)(H)(i)(b)) during each fiscal year.

12 (2) ANNUAL NUMERICAL LIMITATION.—As soon
13 as practicable and no later than March 2 of each fis-
14 cal year, the Secretary shall publish in the Federal
15 Register the numerical limitation determined under
16 section 214(g)(1)(A) for such fiscal year.

17 (d) EFFECTIVE DATE AND APPLICATION.—The
18 amendments made by subsection (a) shall take effect on
19 the first day of the first fiscal year beginning after the
20 date of the enactment of this Act and apply to applications
21 for nonimmigrant visas under section 101(a)(15)(H)(i)(b)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1101(a)(15)(H)(i)(b)) for such fiscal year.

1 **SEC. 4102. EMPLOYMENT AUTHORIZATION FOR DEPEND-**
2 **ENTS OF EMPLOYMENT-BASED NON-**
3 **IMMIGRANTS.**

4 Section 214(e) (8 U.S.C. 1184(e)) is amended—

5 (1) by striking “Attorney General” each place
6 such term appears and inserting “Secretary of
7 Homeland Security”; and

8 (2) in paragraph (2), by amending subpara-
9 graph (E) to read as follows:

10 “(E)(i) In the case of an alien spouse admitted under
11 section 101(a)(15)(L), who is accompanying or following
12 to join a principal alien admitted under such section, the
13 Secretary of Homeland Security shall—

14 “(I) authorize the alien spouse to engage in em-
15 ployment in the United States; and

16 “(II) provide the spouse with an ‘employment
17 authorized’ endorsement or other appropriate work
18 permit.

19 “(ii) In the case of an alien spouse admitted under
20 section 101(a)(15)(H)(i), who is accompanying or fol-
21 lowing to join a principal alien admitted under such sec-
22 tion, the Secretary of Homeland Security shall—

23 “(I) authorize the alien spouse to engage in em-
24 ployment in the United States only if such spouse is
25 a national of a foreign country that permits recip-
26 rocal employment; and

1 “(H) provide such a spouse with an ‘employ-
2 ment authorized’ endorsement or other appropriate
3 work permit, if appropriate.

4 “(iii)(I) In clause (ii), the term ‘foreign country that
5 permits reciprocal employment’ means a foreign country
6 that permits a spouse who is a national of the United
7 States and is accompanying or following to join the em-
8 ployment-based nonimmigrant husband or wife of such
9 spouse to be employed in such foreign country based on
10 that status.

11 “(H) In subclause (I), the term ‘employment-based
12 nonimmigrant’ means an individual who is admitted to a
13 foreign country to perform employment similar to the em-
14 ployment described in section 101(a)(15)(H)(i)(b).”.

15 **SEC. 4103. ELIMINATING IMPEDIMENTS TO WORKER MO-**
16 **BILITY.**

17 (a) DEFERENCE TO PRIOR APPROVALS.—Section
18 214(e) (8 U.S.C. 1184(e)), as amended by section 4102,
19 is further amended by adding at the end the following:

20 “(15) Subject to paragraph (2)(D) and subsection (g)
21 and section 104(e) and subsections (a) and (b) of section
22 106 of the American Competitiveness in the Twenty-first
23 Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1184
24 note), the Secretary of Homeland Security shall give def-
25 erence to a prior approval of a petition in reviewing a peti-

1 tion to extend the status of a nonimmigrant admitted
2 under subparagraph (H)(i)(b) or (L) of section 101(a)(15)
3 if the petition involves the same alien and petitioner unless
4 the Secretary determines that—

5 “(A) there was a material error with regard to
6 the previous petition approval;

7 “(B) a substantial change in circumstances has
8 taken place;

9 “(C) new material information has been discov-
10 ered that adversely impacts the eligibility of the em-
11 ployer or the nonimmigrant; or

12 “(D) in the Secretary’s discretion, such exten-
13 sion should not be approved.”.

14 (b) EFFECT OF EMPLOYMENT TERMINATION.—See-
15 tion 214(n) (8 U.S.C. 1184(n)) is amended by adding at
16 the end the following:

17 “(3) A nonimmigrant admitted under section
18 101(a)(15)(H)(i)(b) whose employment relationship termi-
19 nates before the expiration of the nonimmigrant’s period
20 of authorized admission shall be deemed to have retained
21 such legal status throughout the entire 60-day period be-
22 ginning on the date such employment is terminated. A
23 nonimmigrant who files a petition to extend, change, or
24 adjust their status at any point during such period shall

1 be deemed to have lawful status under section
2 101(a)(15)(H)(i)(b) while that petition is pending.”.

3 (c) VISA REVALIDATION.—Section 222(e) (8 U.S.C.
4 1202(e)) is amended—

5 (1) by inserting “(1)” before “Every alien”;
6 and

7 (2) by adding at the end the following:

8 “(2) The Secretary of State may, at the Secretary’s
9 discretion, renew in the United States the visa of an alien
10 admitted under subparagraph (A), (E), (G), (H), (I), (L),
11 (N), (O), (P), (R), or (W) section 101(a)(15) if the alien
12 has remained eligible for such status and qualifies for a
13 waiver of interview as provided for in subsection
14 (h)(1)(D).”.

15 (d) INTERVIEW WAIVERS FOR LOW RISK VISA AP-
16 PPLICANTS.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is
17 amended—

18 (1) in subparagraph (B)(iv), by striking “or” at
19 the end;

20 (2) in subparagraph (C)(ii), by striking “and”
21 at the end and inserting “or”; and

22 (3) by adding at the end the following:

23 “(D) by the Secretary of State, in con-
24 sultation with the Secretary of Homeland Secu-
25 rity, for such aliens or classes of aliens—

1 “(i) that the Secretary determines
2 generally represent a low security risk;

3 “(ii) for which an in-person interview
4 would not add material benefit to the adju-
5 dication process;

6 “(iii) unless the Secretary of State,
7 after a review of all standard database and
8 biometric checks, the visa application, and
9 other supporting documents, determines
10 that an interview is unlikely to reveal de-
11 rogatory information; and

12 “(iv) except that in every case, the
13 Secretary of State retains the right to re-
14 quire an applicant to appear for an inter-
15 view; and”.

16 **SEC. 4104. STEM EDUCATION AND TRAINING.**

17 (a) FEE.—Section 212(a)(5)(A) (8 U.S.C.
18 1182(a)(5)(A)) is amended by adding at the end the fol-
19 lowing:

20 “(v) FEE.—An employer shall submit,
21 along with an application for a certification
22 under this subparagraph, a fee of \$500
23 which shall be deposited in the STEM
24 Education and Training Account estab-
25 lished by section 286(s).”.

1 (b) USE OF FEE.—Section 286(s) (8 U.S.C. 1356(s))
2 is amended to read as follows:

3 “(s) STEM EDUCATION AND TRAINING ACCOUNT.—

4 “(1) IN GENERAL.—There is established in the
5 general fund of the Treasury a separate account,
6 which shall be known as the ‘STEM Education and
7 Training Account’. Notwithstanding any other sec-
8 tion of this title, there shall be deposited as offset-
9 ting receipts into the account all fees collected under
10 section 212(a)(5)(A)(v).

11 “(2) LOW-INCOME STEM SCHOLARSHIP PRO-
12 GRAM.—Sixty percent of the amounts deposited into
13 the STEM Education and Training Account shall
14 remain available to the Director of the National
15 Science Foundation until expended for scholarships
16 described in section 414(d) of the American Com-
17 petitiveness and Workforce Improvement Act of
18 1998 (42 U.S.C. 1869e) for low-income students en-
19 rolled in a program of study leading to a degree in
20 science, technology, engineering, or mathematics.

21 “(3) NATIONAL SCIENCE FOUNDATION COM-
22 PETITIVE GRANT PROGRAM FOR K-12 SCIENCE,
23 TECHNOLOGY, ENGINEERING AND MATHEMATICS
24 EDUCATION.—

1 “(A) IN GENERAL.—Fifteen percent of the
2 amounts deposited into the STEM Education
3 and Training Account shall remain available to
4 the Director of the National Science Founda-
5 tion until expended to carry out a direct or
6 matching grant program to support improve-
7 ment in K–12 education, including through pri-
8 vate-public partnerships.

9 “(B) TYPES OF PROGRAMS COVERED.—
10 The Director shall award grants to such pro-
11 grams, including those which support the devel-
12 opment and implementation of standards-based
13 instructional materials models and related stu-
14 dent assessments that enable K–12 students to
15 acquire an understanding of science, technology,
16 engineering, and mathematics, as well as to de-
17 velop critical thinking skills; provide systemic
18 improvement in training K–12 teachers and
19 education for students in science, technology,
20 engineering, and mathematics, including by
21 supporting efforts to promote gender-equality
22 among students receiving such instruction; sup-
23 port the professional development of K–12
24 science, technology, engineering and mathe-
25 matics teachers in the use of technology in the

1 classroom; stimulate system-wide K–12 reform
2 of science, technology, engineering, and mathe-
3 matics in rural, economically disadvantaged re-
4 gions of the United States; provide externships
5 and other opportunities for students to increase
6 their appreciation and understanding of science,
7 technology, engineering, and mathematics (in-
8 cluding summer institutes sponsored by an in-
9 stitution of higher education for students in
10 grades 7–12 that provide instruction in such
11 fields); involve partnerships of industry, edu-
12 cational institutions, and community organiza-
13 tions to address the educational needs of dis-
14 advantaged communities; provide college pre-
15 paratory support to expose and prepare stu-
16 dents for careers in science, technology, engi-
17 neering, and mathematics; and provide for ear-
18 nying out systemic reform activities under sec-
19 tion 3(a)(1) of the National Science Foundation
20 Act of 1950 (42 U.S.C. 1862(a)(1)).

21 “(4) STEM CAPACITY BUILDING AT MINORITY-
22 SERVING INSTITUTIONS.—

23 “(A) IN GENERAL.—Twelve percent of the
24 amounts deposited into the STEM Education
25 and Training Account shall remain available to

1 the Director of the National Science Founda-
2 tion until expended to establish or expand pro-
3 grams to award grants on a competitive, merit-
4 reviewed basis to enhance the quality of under-
5 graduate science, technology, engineering, and
6 mathematics education at minority-serving in-
7 stitutions of higher education and to increase
8 the retention and graduation rates of students
9 pursuing degrees in such fields at such institu-
10 tions.

11 “(B) TYPES OF PROGRAMS COVERED.—
12 Grants awarded under this paragraph shall be
13 awarded to—

14 “(i) minority-serving institutions of
15 higher education for—

16 “(I) activities to improve courses
17 and curriculum in science, technology,
18 engineering, and mathematics;

19 “(II) efforts to promote gender
20 equality among students enrolled in
21 such courses;

22 “(III) faculty development;

23 “(IV) stipends for undergraduate
24 students participating in research;
25 and

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1 “(V) other activities consistent
2 with subparagraph (A), as determined
3 by the Director; and

4 “(ii) to other institutions of higher
5 education to partner with the institutions
6 described in clause (i) for—

7 “(I) faculty and student develop-
8 ment and exchange;

9 “(II) research infrastructure de-
10 velopment;

11 “(III) joint research projects;
12 and

13 “(IV) identification and develop-
14 ment of minority and low-income can-
15 didates for graduate studies in
16 science, technology, engineering and
17 mathematics degree programs.

18 “(C) INSTITUTIONS INCLUDED.—In this
19 paragraph, the term ‘minority-serving institu-
20 tions of higher education’ shall include—

21 “(i) colleges eligible to receive funds
22 under the Act of August 30, 1890 (7
23 U.S.C. 321–326a and 328), including
24 Tuskegee University;

1 “(ii) 1994 Institutions, as defined in
2 section 532 of the Equity in Educational
3 Land-Grant Status Act of 1994 (7 U.S.C.
4 301 note); and

5 “(iii) Hispanic-serving institutions, as
6 defined in section 502(a)(5) of the Higher
7 Education Act of 1965 (20 U.S.C.
8 1101a(a)(5)).

9 “(5) STEM JOB TRAINING.—Ten percent of
10 amounts deposited into the STEM Education and
11 Training Account shall remain available to the Sec-
12 retary of Labor until expended for—

13 “(A) demonstration programs and projects
14 described in section 414(e) of the American
15 Competitiveness and Workforce Improvement
16 Act of 1998; and

17 “(B) training programs in the fields of
18 science, technology, engineering, and mathe-
19 matics for persons who have served honorably
20 in the Armed Forces of the United States and
21 have retired or are retiring from such service.

22 “(6) USE OF FEES FOR DUTIES RELATING TO
23 PETITIONS.—One and one-half percent of the
24 amounts deposited into the STEM Education and
25 Training Account shall remain available to the Sec-

1 retary of Homeland Security until expended to carry
 2 out duties under paragraphs (1) (E) or (F) of sec-
 3 tion 204(a) (related to petitions for immigrants de-
 4 scribed in section 203(b)) and under paragraphs (1)
 5 and (9) of section 214(e) (related to petitions made
 6 for nonimmigrants described in section
 7 101(a)(15)(H)(i)(b)).

8 “(7) USE OF FEES FOR APPLICATION PROC-
 9 ESSING AND ENFORCEMENT.—One and one-half per-
 10 cent of the amounts deposited into the STEM Edu-
 11 cation and Training Account shall remain available
 12 to the Secretary of Labor until expended for de-
 13 creasing the processing time for applications under
 14 section 212(a)(5)(A) and section 212(n)(1).”.

15 **Subtitle B—H-1B Visa Fraud and** 16 **Abuse Protections**

17 **CHAPTER 1—H-1B EMPLOYER**

18 **APPLICATION REQUIREMENTS**

19 **SEC. 4211. MODIFICATION OF APPLICATION REQUIRE-**
 20 **MENTS.**

21 (a) **GENERAL APPLICATION REQUIREMENTS.—**

22 (1) **WAGE RATES.—**

23 (A) **IN GENERAL.—**Section 212(n)(1)(A)

24 (8 U.S.C. 1182(n)(1)(A)) is amended—

25 (i) clause (i)—

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1 (I) in the matter preceding sub-
2 clause (I), by inserting “if the em-
3 ployer is not an H-1B-dependent em-
4 ployer,” before “is offering”;

5 (II) in subclause (I), by striking
6 “question, or” and inserting “ques-
7 tion; or”;

8 (III) in subclause (II), by strik-
9 ing “employment,” and inserting “em-
10 ployment;” and

11 (IV) in the undesignated material
12 following subclause (II), by striking
13 “application, and” and inserting “ap-
14 plication;”; and

15 (ii) by striking clause (ii) and insert-
16 ing the following:

17 “(ii) if the employer is an H-1B-dependent
18 employer, is offering and will offer to H-1B
19 nonimmigrants, during the period of authorized
20 employment for each H-1B nonimmigrant,
21 wages that are not less than the level 2 wages
22 set out in subsection (p); and

23 “(iii) will provide working conditions for
24 H-1B nonimmigrants that will not adversely af-

1 fect the working conditions of other workers
2 similarly employed.”.

3 ~~(2) STRENGTHENING THE PREVAILING WAGE~~
4 ~~SYSTEM.—~~

5 (A) IN GENERAL.—Section 212(p) (8
6 U.S.C. 1182(p)) is amended to read as follows:

7 “(p) COMPUTATION OF PREVAILING WAGE LEVEL.—

8 “(1) IN GENERAL.—

9 “(A) SURVEYS.—For employers of non-
10 immigrants admitted pursuant to section
11 101(a)(15)(H)(i)(b), the Secretary of Labor
12 shall make available to employers a govern-
13 mental survey to determine the prevailing wage
14 for each occupational classification by metro-
15 politan statistical area in the United States.
16 Such survey, or other survey approved by the
17 Secretary of Labor, shall provide 3 levels of
18 wages commensurate with experience, edu-
19 cation, and level of supervision. Such wage lev-
20 els shall be determined as follows:

21 “(i) The first level shall be the mean
22 of the lowest two-thirds of wages surveyed,
23 but in no case less than 80 percent of the
24 mean of the wages surveyed.

1 “(ii) The second level shall be the
2 mean of wages surveyed.

3 “(iii) The third level shall be the
4 mean of the highest two-thirds of wages
5 surveyed.

6 “(B) ~~EDUCATIONAL, NONPROFIT, RE-~~
7 ~~SEARCH, AND GOVERNMENTAL ENTITIES.—~~In
8 computing the prevailing wage level for an occu-
9 pational classification in an area of employment
10 for purposes of section 203(b)(1)(D) and sub-
11 sections (a)(5)(A), (n)(1)(A)(i)(II), and
12 (t)(1)(A)(i)(II) of this section in the case of an
13 employee of—

14 “(i) an institution of higher education;
15 or a related or affiliated nonprofit entity;
16 or

17 “(ii) a nonprofit research organization
18 or a governmental research organization;

19 the prevailing wage level shall only take into ac-
20 count employees at such institutions and orga-
21 nizations in the area of employment.

22 “(2) ~~PAYMENT OF PREVAILING WAGE.—~~The
23 prevailing wage level required to be paid pursuant to
24 section 203(b)(1)(D) and subsections (a)(5)(A),
25 (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of this section

1 shall be 100 percent of the wage level determined
2 pursuant to those sections:

3 ~~“(3) PROFESSIONAL ATHLETE.—~~With respect
4 to a professional athlete (as defined in subsection
5 ~~(a)(5)(A)(iii)(II)~~) when the job opportunity is cov-
6 ered by professional sports league rules or regula-
7 tions, the wage set forth in those rules or regula-
8 tions shall be considered as not adversely affecting
9 the wages of United States workers similarly em-
10 ployed and be considered the prevailing wage.

11 ~~“(4) WAGES FOR H-2B EMPLOYEES.—~~

12 ~~“(A) IN GENERAL.—~~The wages paid to H-
13 2B nonimmigrants employed by the employer
14 will be the greater of—

15 ~~“(i) the actual wage level paid by the~~
16 ~~employer to other employees with similar~~
17 ~~experience and qualifications for such posi-~~
18 ~~tion; or~~

19 ~~“(ii) the prevailing wage level for the~~
20 ~~occupational classification of the position~~
21 ~~in the geographic area of the employment,~~
22 ~~based on the best information available as~~
23 ~~of the time of filing the application.~~

24 ~~“(B) BEST INFORMATION AVAILABLE.—~~In
25 subparagraph (A), the term ‘best information

1 available', with respect to determining the pre-
2 vailing 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 (3) WAGES FOR EDUCATIONAL, NONPROFIT,
17 RESEARCH, AND GOVERNMENTAL ENTITIES.—Sec-
18 tion 212 is amended by adding at the end the fol-
19 lowing:

20 “(v) DETERMINATION OF PREVAILING WAGE.—In
21 the case of a nonprofit institution of higher education (as
22 defined in section 101(a) of the Higher Education Act of
23 1965 (20 U.S.C. 1001(a)), a related or affiliated nonprofit
24 entity, a nonprofit research organization, or a Govern-

1 mental research organization, the Secretary of Labor shall
2 determine such wage levels as follows:

3 “(1) If the Secretary of Labor uses, or makes
4 available to employers, a governmental survey to de-
5 termine the prevailing wage, such survey shall pro-
6 vide at least 4 levels of wages commensurate with
7 experience, education, and the level of supervision.

8 “(2) If an existing government survey has only
9 2 levels, 2 intermediate levels may be created by di-
10 viding by 3, the difference between the 2 levels of-
11 fered, adding the quotient thus obtained to the first
12 level and subtracting that quotient from the second
13 level :

14 “(3) For institutions of higher education, only
15 teaching positions and research positions may be
16 paid using this special educational wage level.”.

17 (b) INTERNET POSTING REQUIREMENT.—Section
18 212(n)(1)(C) (8 U.S.C. 1182(n)(1)(C)) is amended—

19 (1) by redesignating clause (ii) as subclause
20 (H);

21 (2) by striking “(i) has provided” and inserting
22 the following:

23 “(ii)(I) has provided”; and

24 (3) by striking “sought, or” and inserting
25 “sought, or”;

1 (4) by inserting before clause (ii), as redesignated by paragraph (2), the following:

2 “(i) has advertised on the Internet website
3 maintained by the Secretary of Labor for the
4 purpose of such advertising, for at least 30 calendar
5 days, a detailed description of each position
6 for which a nonimmigrant is sought that
7 includes a description of—

8 “(I) the wage ranges and other terms
9 and conditions of employment;

10 “(II) the minimum education, training,
11 experience, and other requirements for
12 the position; and

13 “(III) the process for applying for the
14 position; and”.

15 (e) APPLICATION OF REQUIREMENTS TO ALL EMPLOYERS.—

16 (1) NONDISPLACEMENT.—Section 212(n)(1)(E)
17 (8 U.S.C. 1182(n)(1)(E)) is amended to read as follows:

18 “(E)(i)(I) Subject to subclause (II), in the case
19 of an application filed by an employer that is not an
20 H-1B-dependent employer, the employer did not displace
21 and will not displace a United States worker
22 (as defined in paragraph (4)) employed by the em-

1 ployer within the period beginning 90 days before
2 and ending 90 days after the date of filing of any
3 visa petition supported by the application.

4 “(H) An employer who is not an H-1B-depend-
5 ent employer shall not be subject to clause (i) if the
6 number of United States workers employed by such
7 employer in the same job zone as the H-1B non-
8 immigrant has not decreased during the 1-year pe-
9 riod ending on the date of the labor condition appli-
10 cation filed by the employer.

11 “(ii)(I) In the case of an application filed by an
12 H-1B-dependent employer, the employer did not dis-
13 place and will not displace a United States worker
14 (as defined in paragraph (4)) employed by the em-
15 ployer within the period beginning 180 days before
16 and ending 180 days after the date of the filing of
17 any visa petition supported by the application.

18 “(H) An application described in this clause is
19 an application filed on or after the date final regula-
20 tions are first promulgated to carry out this sub-
21 paragraph, and before by an H-1B-dependent em-
22 ployer (as defined in paragraph (3)) or by an em-
23 ployer that has been found, on or after the date of
24 the enactment of the American Competitiveness and
25 Workforce Improvement Act of 1998, under para-

1 graph (2)(C) or (5) to have committed a willful fail-
2 ure or misrepresentation during the 5-year period
3 preceding the filing of the application.

4 “(iii) In this subparagraph, the term ‘job zone’
5 means a zone assigned to an occupation by—

6 “(I) the Occupational Information Network
7 Database (O*NET) on the date of the enact-
8 ment of this Act; or

9 “(II) such Database or a similar successor
10 database, as designated by the Secretary of
11 Labor, after the date of the enactment of this
12 Act.”.

13 (2) RECRUITMENT.—Section 212(n)(1)(G) (8
14 U.S.C. 1182(n)(1)(G)) is amended to read as fol-
15 lows:

16 “(G) An employer, prior to filing the applica-
17 tion—

18 “(i) has advertised the job on an Internet
19 website maintained by the Secretary of Labor
20 for the purpose of such advertising;

21 “(ii) has offered the job to any United
22 States worker who applies and is equally or bet-
23 ter qualified for the job for which the non-
24 immigrant or nonimmigrants is or are sought;
25 and

1 “(iii) if the employer is an H-1B-depend-
2 ent employer, has taken good faith steps to re-
3 recruit, in the United States using procedures
4 that meet industry-wide standards and offering
5 compensation that is at least as great as that
6 required to be offered to H-1B nonimmigrants
7 under subparagraph (A), United States workers
8 for the job for which the nonimmigrant or non-
9 immigrants is or are sought.”.

10 (d) ~~OUTPLACEMENT.~~—Section 212(n)(1)(F) (8
11 U.S.C. 1182(n)(1)(F)) is amended to read as follows:

12 “(F)(i) An H-1B-dependent employer may
13 not place, outsource, lease, or otherwise con-
14 tract for the services or placement of an H-1B
15 nonimmigrant employee.

16 “(ii) An employer that is not an H-1B-de-
17 pendent employer and not described in para-
18 graph (3)(A)(i) may not place, outsource, lease,
19 or otherwise contract for the services or place-
20 ment of an H-1B nonimmigrant employee un-
21 less the employer pays a fee of \$500.

22 “(iii) A fee collected under clause (ii) shall
23 be deposited in the Comprehensive Immigration
24 Reform Trust Fund established under section 6

1 of the Border Security, Economic Opportunity,
2 and Immigration Modernization Act.”.

3 (c) ~~H-1B-DEPENDENT EMPLOYER DEFINED.~~—Sec-
4 tion 212(n)(3) (8 U.S.C. 1182(n)(3)) is amended to read
5 as follows:

6 “(3)(A) For purposes of complying with the require-
7 ments related to outplacement of an employee, the term
8 ‘~~H-1B-dependent employer~~’ means an employer that—

9 “(i) is not a nonprofit institution of higher edu-
10 cation, a nonprofit research organization, or an em-
11 ployer whose primary line of business is healthcare
12 and who is petitioning for a physician, a nurse, or
13 physical therapist or a substantially equivalent
14 healthcare occupation; and

15 “(ii)(I) in the case of an employer that has 25
16 or fewer full-time equivalent employees who are em-
17 ployed in the United States; employs more than 7
18 ~~H-1B nonimmigrants;~~

19 “(II) in the case of an employer that has at
20 least 26 but not more than 50 full-time equivalent
21 employees who are employed in the United States;
22 employs more than 12 ~~H-1B nonimmigrant;~~ or

23 “(III) in the case of an employer that has at
24 least 51 full-time equivalent employees who are em-
25 ployed in the United States; employs ~~H-1B non-~~

1 immigrants in a number that is equal to at least 15
2 percent of the number of such full-time equivalent
3 employees.

4 “(B) In determining the number of employees who
5 are H-1B nonimmigrants under subparagraph (A)(ii), an
6 intending immigrant employee shall not count toward such
7 number”.

8 (f) INTENDING IMMIGRANTS DEFINED.—Section
9 101(a) (8 U.S.C. 1101(a)) is amended by adding at the
10 end the following:

11 “(53)(A) The term ‘intending immigrant’
12 means, with respect to the number of aliens em-
13 ployed by an employer, an alien who intends to work
14 and reside permanently in the United States, as evi-
15 denced by—

16 “(i) for a covered employer, an approved
17 application for a labor certification or an appli-
18 cation that has been pending for longer than 1
19 year; or

20 “(ii) a pending or approved immigrant sta-
21 tus petition filed for such alien.

22 “(B) In this paragraph:

23 “(i) The term ‘covered employer’ means an
24 employer of an alien that, during the 1-year pe-
25 riod ending on the date the employer files an

1 application for the labor certification for such
2 alien, has filed an immigrant status petition for
3 not less than 90 percent of the aliens for whom
4 the employer filed an application for a labor
5 certification during such period. Labor certifi-
6 cation applications that have been pending for
7 longer than 1 year may be treated for this cal-
8 culation as if the employer filed an immigrant
9 status petition

10 “(ii) The term ‘labor certification’ means
11 an employment certification under section
12 212(a)(5)(A).

13 “(iii) The term ‘immigrant status petition’
14 means a petition filed under paragraph (1), (2),
15 or (3) of section 203(b).

16 “(C) Notwithstanding any other provision of
17 law, for all—

18 “(i) calculations under this Act of the
19 number of aliens admitted pursuant to subpara-
20 graph (H)(i)(b) or (L) of paragraph (15) an in-
21 tending immigrant shall be counted as an alien
22 lawfully admitted for permanent residence and
23 shall not be counted as an employee admitted
24 pursuant to such a subparagraph; and

1 “(ii) determinations of the number of em-
 2 ployees or United States workers employed by
 3 an employer, all of the employees in any group
 4 treated as a single employer under subsection
 5 (b), (c), (m), or (o) of section 414 of the Inter-
 6 nal Revenue Code of 1986 shall be counted.”.

7 **SEC. 4212. REQUIREMENTS FOR ADMISSION OF NON-**
 8 **IMMIGRANT NURSES IN HEALTH PROFES-**
 9 **SIONAL SHORTAGE AREAS.**

10 (a) **EXTENSION OF PERIOD OF AUTHORIZED ADMIS-**
 11 **SION.**—Section 212(m)(3) (8 U.S.C. 1182(m)(3)) is
 12 amended to read as follows:

13 “(3) The initial period of authorized admission as a
 14 nonimmigrant under section 101(a)(15)(H)(i)(e) shall be
 15 3 years, and may be extended once for an additional 3-
 16 year period.”.

17 (b) **NUMBER OF VISAS.**—Section 212(m)(4) (8
 18 U.S.C. 1182(m)(4)) is amended by striking “500.” and
 19 inserting “300.”.

20 (c) **PORTABILITY.**—Section 214(n) (8 U.S.C.
 21 1184(n)), as amended by section 4103(b), is further
 22 amended by adding at the end the following:

23 “(4)(A) A nonimmigrant alien described in subpara-
 24 graph (B) who was previously issued a visa or otherwise
 25 provided nonimmigrant status under section

1 101(a)(15)(H)(i)(c) is authorized to accept new employ-
2 ment performing services as a registered nurse for a facil-
3 ity described in section 212(m)(6) upon the filing by the
4 prospective employer of a new petition on behalf of such
5 nonimmigrant as provided under subsection (c). Employ-
6 ment authorization shall continue for such alien until the
7 new petition is adjudicated. If the new petition is denied,
8 such authorization shall cease.

9 “(B) A nonimmigrant alien described in this para-
10 graph is a nonimmigrant alien—

11 “(i) who has been lawfully admitted into the
12 United States;

13 “(ii) on whose behalf an employer has filed a
14 nonfrivolous petition for new employment before the
15 date of expiration of the period of stay authorized by
16 the Secretary of Homeland Security, except that, if
17 a nonimmigrant described in section
18 101(a)(15)(H)(i)(c) is terminated or laid off by the
19 nonimmigrant’s employer, or otherwise ceases em-
20 ployment with the employer, such petition for new
21 employment shall be filed during the 45-day period
22 beginning on the date of such termination, lay off,
23 or cessation; and

1 “(iii) who, subsequent to such lawful admission,
2 has not been employed without authorization in the
3 United States before the filing of such petition.”

4 (d) APPLICABILITY.—

5 (1) IN GENERAL.—Beginning on the commence-
6 ment date described in paragraph (2), the amend-
7 ments made by section 2 of the Nursing Relief for
8 Disadvantaged Areas Act of 1999 (Public Law 106–
9 95; 113 Stat. 1313), and the amendments made by
10 this section, shall apply to classification petitions
11 filed for nonimmigrant status. This period shall be
12 in addition to the period described in section 2(e) of
13 the Nursing Relief for Disadvantaged Areas Act of
14 1999 (8 U.S.C. 1182 note).

15 (2) COMMENCEMENT DATE.—Not later than 60
16 days after the date of the enactment of this Act, the
17 Secretary shall determine whether regulations are
18 necessary to implement the amendments made by
19 this section. If the Secretary determines that no
20 such regulations are necessary, the commencement
21 date described in this paragraph shall be the date of
22 such determination. If the Secretary determines that
23 regulations are necessary to implement any amend-
24 ment made by this section, the commencement date

1 described in this paragraph shall be the date on
2 which such regulations (in final form) take effect.

3 **SEC. 4213. NEW APPLICATION REQUIREMENTS.**

4 Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended
5 by inserting after clause (iii) of subparagraph (G) ; as
6 amended by section 4211(e)(2),the following:

7 “(H)(i) The employer has not advertised any
8 available position specified in the application in an
9 advertisement that states or indicates that—

10 “(I) such position is only available to an
11 individual who is or will be an H-1B non-
12 immigrant or an alien participating in optional
13 practical training pursuant to section
14 101(a)(15)(F)(i); or

15 “(H) an individual who is or will be an H-
16 1B nonimmigrant or participant in such op-
17 tional practical training shall receive priority or
18 a preference in the hiring process for such posi-
19 tion.

20 “(ii) The employer has not solely recruited indi-
21 viduals who are or who will be H-1B nonimmigrants
22 or participants in optional practical training pursu-
23 ant to section 101(a)(15)(F)(i) to fill such position.

24 “(I)(i) If the employer (other than an edu-
25 cational or research employer) employs 50 or more

1 employees in the United States, the sum of the num-
2 ber of such employees who are H-1B nonimmigrants
3 plus the number of such employees who are non-
4 immigrants described in section 101(a)(15)(L) may
5 not exceed—

6 “(I) 75 percent of the total number of em-
7 ployees, for fiscal year 2015;

8 “(II) 65 percent of the total number of
9 employees, for fiscal year 2016; and

10 “(III) 50 percent of the total number of
11 employees, for each fiscal year after fiscal year
12 2016.

13 “(ii) In this subparagraph:

14 “(I) The term ‘educational or research em-
15 ployer’ means an employer that is a nonprofit
16 institution of higher education or a nonprofit
17 research organization described in section
18 501(c)(3) of the Internal Revenue Code of 1986
19 and exempt from taxation under 501(a) of that
20 Code.

21 “(II) The term ‘H-1B nonimmigrant’
22 means an alien admitted as a nonimmigrant
23 pursuant to section 101(a)(15)(H)(i)(b).

24 “(III) The term ‘L nonimmigrant’ means
25 an alien admitted as a nonimmigrant pursuant

1 to section 101(a)(15)(L) to provide services to
2 his or her employer involving specialized knowl-
3 edge.

4 “(iii) In determining the percentage of employ-
5 ees of an employer that are H-1B nonimmigrants or
6 L nonimmigrants under clause (i), an intending im-
7 migrant employee shall not count toward such per-
8 centage.

9 “(J) The employer shall submit to the Sec-
10 retary of Homeland Security an annual report that
11 includes the Internal Revenue Service Form W-2
12 Wage and Tax Statement filed by the employer for
13 each H-1B nonimmigrant employed by the employer
14 during the previous year.”.

15 **SEC. 4214. APPLICATION REVIEW REQUIREMENTS.**

16 (a) **TECHNICAL AMENDMENT.**—Section 212(n)(1) (8
17 U.S.C. 1182(n)(1)), as amended by section 4213, is fur-
18 ther amended in the undesignated paragraph at the end,
19 by striking “The employer” and inserting the following:

20 “(K) The employer”.

21 (b) **APPLICATION REVIEW REQUIREMENTS.**—Sub-
22 paragraph (K) of such section 212(n)(1), as designated
23 by subsection (a), is amended—

24 (1) by inserting “and through the Department
25 of Labor’s website, without charge.” after “D.C.”;

1 (2) by striking “only for completeness” and in-
2 serting “for completeness and evidence of fraud or
3 misrepresentation of material fact,”;

4 (3) by striking “or obviously inaccurate” and
5 inserting “, presents evidence of fraud or misrepre-
6 sentation of material fact, or is obviously inae-
7 curate”;

8 (4) by striking “within 7 days of the” and in-
9 serting “not later than 14 after”; and

10 (5) by adding at the end the following: “If the
11 Secretary’s review of an application identifies evi-
12 dence of fraud or misrepresentation of material fact,
13 the Secretary may conduct an investigation and
14 hearing in accordance with paragraph (2).”.

15 (c) FILING OF PETITION FOR NONIMMIGRANT
16 WORKER.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as
17 amended by section 4213, is further amended by adding
18 at the end the following:

19 “(L) An I-129 Petition for Nonimmigrant
20 Worker (or similar successor form)—

21 “(i) may be filed by an employer with the
22 Secretary of Homeland Security prior to the
23 date the employer receives an approved certifi-
24 cation described in section 101(a)(15)(H)(i)(b)
25 from the Secretary of Labor; and

1 “(ii) may not be approved by the Secretary
2 of Homeland Security until the date such cer-
3 tification is approved.”.

4 **CHAPTER 2— INVESTIGATION AND DIS-**
5 **POSITION OF COMPLAINTS AGAINST**
6 **H-1B EMPLOYERS**

7 **SEC. 4221. GENERAL MODIFICATION OF PROCEDURES FOR**
8 **INVESTIGATION AND DISPOSITION.**

9 Subparagraph (A) of section 212(n)(2) (8 U.S.C.
10 1182(n)(2)) is amended—

11 (1) by striking “(A) Subject” and inserting
12 “(A)(i) Subject”;

13 (2) by striking “12 months” and inserting “24
14 months”;

15 (3) by striking the last sentence; and

16 (4) by adding at the end the following:

17 “(ii)(I) Upon the receipt of such a com-
18 plaint, the Secretary may initiate an investiga-
19 tion to determine if such a failure or misrepre-
20 sentation has occurred.

21 “(II) The Secretary may conduct voluntary
22 surveys of the degree to which employers com-
23 ply with the requirements of this subsection.

24 “(III) The Secretary shall—

1 “(aa) conduct annual compliance au-
 2 dits of each employer with more than 100
 3 employees who work in the United States
 4 if more than 15 percent of such employees
 5 are H-1B nonimmigrants; and

6 “(bb) make available to the public an
 7 executive summary or report describing the
 8 general findings of the audits carried out
 9 pursuant to this subclause.”.

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)(i)(I), (H),
 21 (I), or (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 (H), 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 (H), 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)”;

21 (C) by adding at the end the following:

22 “(H) An employer that violates this clause shall
23 be liable to any H-1B nonimmigrant employee
24 harmed by such violation for lost wages and bene-
25 fits.”; and

1 ~~(5)~~ in clause (vi)—

2 (A) by amending subclause (I) to read as
3 follows:

4 ~~“(I)~~ It is a violation of this clause for an em-
5 ployer who has filed an application under this sub-
6 section—

7 ~~“(aa)~~ to require an H-1B nonimmigrant to
8 pay a penalty for ceasing employment with the
9 employer prior to a date agreed to by the non-
10 immigrant and the employer (the Secretary
11 shall determine whether a required payment is
12 a penalty, and not liquidated damages, pursu-
13 ant to relevant State law); and

14 ~~“(bb)~~ to fail to offer to an H-1B non-
15 immigrant, during the nonimmigrant’s period of
16 authorized employment, on the same basis, and
17 in accordance with the same criteria, as the em-
18 ployer offers to similarly situated United States
19 workers, benefits and eligibility for benefits, in-
20 cluding—

21 ~~“(AA)~~ the opportunity to participate
22 in health, life, disability, and other insur-
23 ance plans;

24 ~~“(BB)~~ the opportunity to participate
25 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 Subparagraph (H) of section 212(n)(2) (8 U.S.C.
14 1182(n)(2)) is amended to read as follows:

15 “(H) The Director of United States Citizenship and
16 Immigration Services shall provide the Secretary of Labor
17 with any information contained in the materials submitted
18 by employers of H-1B nonimmigrants as part of the adju-
19 dication process that indicates that the employer is not
20 complying with visa program requirements for H-1B non-
21 immigrants. The Secretary may initiate and conduct an
22 investigation related to H-1B nonimmigrants and hearing
23 under this paragraph after receiving information of non-
24 compliance under this subparagraph. This subparagraph
25 may not be construed to prevent the Secretary of Labor

1 from taking action related to wage and hour and work-
2 place safety laws.”.

3 **CHAPTER 3—OTHER PROTECTIONS**

4 **SEC. 4231. POSTING AVAILABLE POSITIONS THROUGH THE** 5 **DEPARTMENT OF LABOR.**

6 (a) DEPARTMENT OF LABOR WEBSITE.—Section
7 212(n) (8 U.S.C. 1182(n)) is amended by adding at the
8 end following:

9 “(6)(A) Not later than 90 days after the date of the
10 enactment of the Border Security, Economic Opportunity,
11 and Immigration Modernization Act, the Secretary of
12 Labor shall establish a searchable Internet website for
13 posting positions as required by paragraph (1)(C). Such
14 website shall be available to the public without charge.

15 “(B) The Secretary may work with private companies
16 or nonprofit organizations to develop and operate the
17 Internet website described in subparagraph (A).

18 “(C) The Secretary may promulgate rules, after no-
19 tice and a period for comment, to carry out the require-
20 ments of this paragraph.”.

21 (b) REQUIREMENT FOR PUBLICATION.—The Sec-
22 retary of Labor shall submit to Congress and publish in
23 the Federal Register and other appropriate media a notice
24 of the date that the Internet website required by para-

1 graph (6) of section 212(n) of such Act, as amended by
2 subsection (a), will be operational.

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. H-1B GOVERNMENT AUTHORITY AND REQUIRE-**
8 **MENTS.**

9 (a) IMMIGRATION DOCUMENTS.—Section 204 (8
10 U.S.C. 1154) is amended by adding at the end the fol-
11 lowing:

12 “(m) EMPLOYER TO PROVIDE IMMIGRATION PAPER-
13 WORK EXCHANGED WITH FEDERAL AGENCIES.—

14 “(1) IN GENERAL.—Not later than 30 days
15 after a Labor Condition Application is filed, an em-
16 ployer shall provide an employee or beneficiary of
17 such Application who is or seeking to be an non-
18 immigrant described in subparagraph (H)(i)(b) of
19 (L) of section 101(a)(15) with a copy the original of
20 all applications and petitions filed by the employer
21 with the Department of Labor or the Department of
22 Homeland Security for such employee or beneficiary.

23 “(2) WITHHOLDING OF FINANCIAL OR PROPRI-
24 ETARY INFORMATION.—If a document required to be
25 provided to an employee or beneficiary under para-

1 graph (1) includes any financial or propriety infor-
 2 mation of the employer, the employer may redact
 3 such information from the copies provided to such
 4 employee or beneficiary.”.

5 (b) REPORT ON JOB CLASSIFICATION AND WAGE
 6 DETERMINATIONS.—Not later than 1 year after the date
 7 of the enactment of this Act, the Comptroller General of
 8 the United States shall prepare a report analyzing the ac-
 9 curacy and effectiveness of the Secretary of Labor’s cur-
 10 rent job classification and wage determination system. The
 11 report shall—

12 (1) specifically address whether the systems in
 13 place accurately reflect the complexity of current job
 14 types as well as geographic wage differences; and

15 (2) make recommendations concerning nec-
 16 essary updates and modifications.

17 **SEC. 4233. REQUIREMENTS FOR INFORMATION FOR H-1B**
 18 **AND L NONIMMIGRANTS.**

19 Section 214 (8 U.S.C. 1184), as amended by section
 20 3608, is further amended by adding at the end the fol-
 21 lowing:

22 “(t) REQUIREMENTS FOR INFORMATION FOR H-1B
 23 AND L NONIMMIGRANTS.—

24 “(1) IN GENERAL.—Upon issuing a visa to an
 25 applicant for nonimmigrant status pursuant to sub-

1 paragraph ~~(H)(i)(b)~~ or ~~(L)~~ of section ~~101(a)(15)~~
2 who is outside the United States, the issuing office
3 shall provide the applicant with—

4 “~~(A)~~ a brochure outlining the obligations
5 of the applicant’s employer and the rights of
6 the applicant with regard to employment under
7 Federal law, including labor and wage protec-
8 tions; and

9 “~~(B)~~ the contact information for appro-
10 priate Federal agencies or departments that
11 offer additional information or assistance in
12 clarifying such obligations and rights.

13 “~~(2)~~ ~~PROVISION OF MATERIAL.~~—Upon the ap-
14 proval of an application of an applicant referred to
15 in paragraph ~~(1)~~, the applicant shall be provided
16 with the material described in subparagraphs ~~(A)~~
17 and ~~(B)~~ of paragraph ~~(1)~~—

18 “~~(A)~~ by the issuing officer of the Depart-
19 ment of Homeland Security, if the applicant is
20 inside the United States; or

21 “~~(B)~~ by the appropriate official of the De-
22 partment of State, if the applicant is outside
23 the United States.”.

1 **SEC. 4234. FILING FEE FOR H-1B-DEPENDENT EMPLOYERS.**

2 (a) **IN GENERAL.**—Notwithstanding any other provi-
3 sion of law, there shall be a fee required to be submitted
4 by an employer with an application for admission of an
5 H-1B nonimmigrant as follows:

6 (1) For each of the fiscal years 2015 through
7 2024, \$5,000 for applicants that employ 50 or more
8 employees in the United States if more than 30 per-
9 cent and less than 50 percent of the applicant’s em-
10 ployees are H-1B nonimmigrants or L non-
11 immigrants.

12 (2) For each of the fiscal years 2015 through
13 2017, \$10,000 for applicants that employ 50 or
14 more employees in the United States if more than
15 50 percent and less than 75 percent of the appli-
16 cant’s employees are H-1B nonimmigrants or L
17 nonimmigrants.

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-
26 ganization described in section 501(c)(3) of the

1 Internal Revenue Code of 1986 and exempt
2 from taxation under 501(a) of that Code that
3 is—

4 (i) an institution of higher education
5 (as defined in section 101(a) of the Higher
6 Education Act of 1965 (20 U.S.C.
7 1001(a))); or

8 (ii) a research organization.

9 ~~(2) H-1B NONIMMIGRANT.—The term “H-1B~~
10 ~~nonimmigrant”~~ means an alien admitted as a non-
11 ~~immigrant pursuant to section 101(a)(15)(H)(i)(b)~~
12 ~~of the Immigration and Nationality Act (8 U.S.C.~~
13 ~~1101(a)(15)(H)(i)(b)).~~

14 ~~(3) INTENDING IMMIGRANT.—The term “in-~~
15 ~~tending immigrant”~~ has the meaning given that
16 ~~term in paragraph (53) of section 101(a) of the Im-~~
17 ~~migration and Nationality Act (8 U.S.C. 1101(a)).~~

18 ~~(4) L NONIMMIGRANT.—The term “L non-~~
19 ~~immigrant”~~ means an alien admitted as a non-
20 ~~immigrant pursuant to section 101(a)(15)(L) of the~~
21 ~~Immigration and Nationality Act (8 U.S.C.~~
22 ~~1101(a)(15)(L)) to provide services to the alien’s~~
23 ~~employer involving specialized knowledge.~~

24 ~~(c) EXCEPTION FOR INTENDING IMMIGRANTS.—In~~
25 ~~determining the percentage of employees of an employer~~

1 that are ~~H-1B~~ nonimmigrants or ~~L~~ nonimmigrants under
2 subsection (a), an intending immigrant employee shall not
3 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) is amended by striking subsection (b).

10 **SEC. 4235. PROVIDING PREMIUM PROCESSING OF EMPLOY-**
11 **MENT-BASED VISA PETITIONS.**

12 Pursuant to section 286(u) of the Immigration and
13 Nationality Act (8 U.S.C. 1356(u)), the Secretary shall
14 establish and collect—

15 (1) a fee for premium processing of employ-
16 ment-based immigrant petitions; and

17 (2) a fee for premium processing of an adminis-
18 trative appeal of any decision on a permanent em-
19 ployment-based immigrant petition.

20 **SEC. 4236. TECHNICAL CORRECTION.**

21 Section 212 (8 U.S.C. 1182) is amended by redesign-
22 ating the second subsection (t), as added by section
23 1(b)(2)(B) of the Act entitled “An Act to amend and ex-
24 tend the Irish Peace Process Cultural and Training Pro-

1 gram Act of 1998” (Public Law 108–449 (118 Stat.
2 3470)), as subsection (u).

3 **SEC. 4237. APPLICATION.**

4 Except as specifically otherwise provided, the amend-
5 ments made by this subtitle shall apply to applications
6 filed on or after the date of the enactment of this Act.

7 **Subtitle C—L Visa Fraud and**
8 **Abuse Protections**

9 **SEC. 4301. PROHIBITION ON OUTPLACEMENT OF L NON-**
10 **IMMIGRANTS.**

11 Subparagraph (F) of section 214(e)(2) (8 U.S.C.
12 1184(e)(2)) is amended to read as follows:

13 “(F) The employer of an alien described in section
14 101(a)(15)(L) shall not place, outsource, lease, or other-
15 wise contract for the services or placement of such alien
16 with another employer unless—

17 “(i) the other employer is an affiliate, sub-
18 sidiary, or parent entity of the petitioning employer;

19 “(ii) such alien will not be controlled or super-
20 vised principally by the employer with whom such
21 alien would be placed;

22 “(iii) the placement of such alien at the work-
23 site of the other employer, who is not described in
24 clause (i), is not essentially an arrangement to pro-
25 vide labor for hire for the other employer; and

1 “(iv) the other employer attests that the other
2 employer has not displaced and will not displace a
3 United States worker during the period beginning
4 90 days prior to and 90 days after the date the em-
5 ployer files the application.”.

6 **SEC. 4302. L EMPLOYER PETITION REQUIREMENTS FOR**
7 **EMPLOYMENT AT NEW OFFICES.**

8 Section 214(e)(2) (8 U.S.C. 1184(e)(2)) is amended
9 by adding at the end the following:

10 “(G)(i) If the beneficiary of a petition under this
11 paragraph is coming to the United States to open, or be
12 employed in, a new office, the petition may be approved
13 for up to 12 months only if—

14 “(I) the alien has not been the beneficiary of 2
15 or more petitions under this subparagraph during
16 the immediately preceding 2 years; and

17 “(II) the employer operating the new office
18 has—

19 “(aa) an adequate business plan;

20 “(bb) sufficient physical premises to carry
21 out the proposed business activities; and

22 “(cc) the financial ability to commence
23 doing business immediately upon the approval
24 of the petition.

1 “(ii) An extension of the approval period under clause
2 (i) may not be granted until the importing employer sub-
3 mits an application to the Secretary of Homeland Security
4 that contains—

5 “(I) evidence that the importing employer
6 meets the requirements of this subsection;

7 “(II) evidence that the beneficiary of the peti-
8 tion is eligible for nonimmigrant status under sec-
9 tion 101(a)(15)(L);

10 “(III) a statement summarizing the original pe-
11 tition;

12 “(IV) evidence that the importing employer has
13 complied with the business plan submitted under
14 clause (i)(I);

15 “(V) evidence of the truthfulness of any rep-
16 resentations made in connection with the filing of
17 the original petition;

18 “(VI) evidence that the importing employer has
19 been doing business at the new office through reg-
20 ular, systematic, and continuous provision of goods
21 and services;

22 “(VII) a statement of the duties the beneficiary
23 has performed at the new office during the approval
24 period under clause (i) and the duties the beneficiary

1 will perform at the new office during the extension
2 period granted under this clause;

3 “(VIII) a statement describing the staffing at
4 the new office, including the number of employees
5 and the types of positions held by such employees;

6 “(IX) evidence of wages paid to employees;

7 “(X) evidence of the financial status of the new
8 office; and

9 “(XI) any other evidence or data prescribed by
10 the Secretary.

11 “(iii) A new office employing the beneficiary of an
12 ~~L-1~~ petition approved under this paragraph shall do busi-
13 ness only through regular, systematic, and continuous pro-
14 vision of goods and services.

15 “(iv) Notwithstanding clause (ii), and subject to the
16 maximum period of authorized admission set forth in sub-
17 paragraph (D), the Secretary of Homeland Security, in
18 the Secretary’s discretion, may approve a subsequently
19 filed petition on behalf of the beneficiary to continue em-
20 ployment at the office described in this subparagraph for
21 a period beyond the initially granted ~~12-month~~ period if
22 the importing employer has been doing business at the
23 new office through regular, systematic, and continuous
24 provision of goods and services for the 6 months imme-
25 diately preceding the date of extension of petition filing

1 and demonstrates that the failure to satisfy any of the
2 requirements described in those subclauses was directly
3 caused by extraordinary circumstances, as determined by
4 the Secretary in the Secretary's discretion.”.

5 **SEC. 4303. COOPERATION WITH SECRETARY OF STATE.**

6 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
7 by section 4302, is further amended by adding at the end
8 the following:

9 “(H) For purposes of approving petitions under this
10 paragraph, the Secretary of Homeland Security shall work
11 cooperatively with the Secretary of State to verify the ex-
12 istence or continued existence of a company or office in
13 the United States or in a foreign country.”.

14 **SEC. 4304. LIMITATION ON EMPLOYMENT OF L NON-**
15 **IMMIGRANTS.**

16 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
17 by sections 4302 and 4303, is further amended by adding
18 at the end the following:

19 “(I)(i) If the employer employs 50 or more employees
20 in the United States, the sum of the number of such em-
21 ployees who are H-1B nonimmigrants plus the number
22 of such employees who are L nonimmigrants may not ex-
23 ceed—

24 “(I) 75 percent of the total number of employ-
25 ees, for fiscal year 2015;

1 ~~“(H) 65 percent of the total number of employ-~~
2 ~~ees, for fiscal year 2016; and~~

3 ~~“(III) 50 percent of the total number of em-~~
4 ~~ployees, for each fiscal year after fiscal year 2016.~~

5 ~~“(ii) In this subparagraph:~~

6 ~~“(I) The term ‘employer’ does not include a~~
7 ~~nonprofit institution of higher education or a non-~~
8 ~~profit research organization/an organization de-~~
9 ~~scribed in section 501(c)(3) of the Internal Revenue~~
10 ~~Code of 1986 and exempt from taxation under~~
11 ~~501(a) of that Code that is—~~

12 ~~“(aa) an institution of higher education (as~~
13 ~~defined in section 101(a) of the Higher Edu-~~
14 ~~cation Act of 1965 (20 U.S.C. 1001(a)); or~~

15 ~~“(bb) a research organization.~~

16 ~~“(H) The term ‘H-1B nonimmigrant’ means an~~
17 ~~alien admitted as a nonimmigrant pursuant to sec-~~
18 ~~tion 101(a)(15)(H)(i)(b).~~

19 ~~“(III) The term ‘L nonimmigrant’ means an~~
20 ~~alien admitted as a nonimmigrant pursuant to sec-~~
21 ~~tion 101(a)(15)(L) to provide services to the alien’s~~
22 ~~employer involving specialized knowledge.~~

23 ~~“(iii) In determining the percentage of employees of~~
24 ~~an employer that are H-1B nonimmigrants or L non-~~

1 immigrants under clause (i), an intending immigrant em-
2 ployee shall not count toward such percentage.”.

3 **SEC. 4305. FILING FEE FOR L NONIMMIGRANTS.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, the filing fee for an application for admission
6 of an L nonimmigrant shall be as follows:

7 (1) For each of the fiscal years 2014 through
8 2024, \$5,000 for applicants that employ 50 or more
9 employees in the United States if more than 30 per-
10 cent and less than 50 percent of the applicant’s em-
11 ployees are H-1B nonimmigrants or L non-
12 immigrants.

13 (2) For each of the fiscal years 2014 through
14 2017, \$10,000 for applicants that employ 50 or
15 more employees in the United States if more than
16 50 percent and less than 75 percent of the appli-
17 cant’s employees are H-1B nonimmigrants or L
18 nonimmigrants.

19 (b) DEFINITIONS.—In this section:

20 (1) EMPLOYER.—The term “employer” does
21 not include a nonprofit institution of higher edu-
22 cation or a nonprofit research organization/an orga-
23 nization described in section 501(c)(3) of the Inter-
24 nal Revenue Code of 1986 and exempt from taxation
25 under 501(a) of that Code that is—

1 (A) an institution of higher education (as
2 defined in section 101(a) of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1001(a)); or

4 (B) a research organization.

5 (2) ~~H-1B NONIMMIGRANT.~~—The term “~~H-1B~~
6 nonimmigrant” means an alien admitted as a non-
7 immigrant pursuant to section 101(a)(15)(H)(i)(b)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(15)(H)(i)(b)).

10 (3) ~~L NONIMMIGRANT.~~—The term “~~L non-~~
11 immigrant” means an alien admitted as a non-
12 immigrant pursuant to section 101(a)(15)(L) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1101(a)(15)(L)) to provide services to the alien’s
15 employer involving specialized knowledge.

16 (c) ~~EXCEPTION FOR INTENDING IMMIGRANTS.~~—In
17 determining the percentage of employees of an employer
18 that are ~~H-1B nonimmigrants~~ or ~~L nonimmigrants~~ under
19 subsection (a), an intending immigrant employee shall not
20 count toward such percentage.

21 (d) ~~CONFORMING AMENDMENT.~~—Section 402 of the
22 Act entitled “An Act making emergency supplemental ap-
23 propriations for border security for the fiscal year ending
24 September 30, 2010, and for other purposes”, approved
25 August 13, 2010 (Public Law 111-230, 8 U.S.C. 1101

1 note), as amended by section ~~4234(d)~~, is further amended
2 by striking subsections (a) and (e).

3 **SEC. 4306. INVESTIGATION AND DISPOSITION OF COM-**
4 **PLAINTS AGAINST L NONIMMIGRANT EM-**
5 **PLOYERS.**

6 Section ~~214(c)(2)~~ (8 U.S.C. ~~1184(c)(2)~~), as amended
7 by sections ~~4302~~, ~~4303~~, and ~~4304~~ is further amended by
8 adding at the end the following:

9 “(J)(i) The Secretary of Homeland Security may ini-
10 tiate an investigation of any employer that employs non-
11 immigrants described in section ~~101(a)(15)(L)~~ with re-
12 gard to the employer’s compliance with the requirements
13 of this subsection.

14 “(ii)(I) If the Secretary receives specific credible in-
15 formation from a source who is likely to have knowledge
16 of an employer’s practices, employment conditions, or
17 compliance with the requirements under this subsection,
18 the Secretary may conduct an investigation into the em-
19 ployer’s compliance with the requirements of this sub-
20 section.

21 “(II) The Secretary may withhold the identity of a
22 source referred to in subclause (I) from an employer and
23 the identity of such source shall not be subject to disclo-
24 sure under section ~~552~~ of title ~~5~~, United States Code.

1 ~~“(iii) The Secretary shall establish a procedure for~~
2 ~~any person desiring to provide to the Secretary informa-~~
3 ~~tion described in clause (ii)(I) that may be used, in whole~~
4 ~~or in part, as the basis for the commencement of an inves-~~
5 ~~tigation described in such clause, to provide the informa-~~
6 ~~tion in writing on a form developed and provided by the~~
7 ~~Secretary and completed by or on behalf of the person.~~

8 ~~“(iv) No investigation described in clause (ii)(I) (or~~
9 ~~hearing described in clause (vi) based on such investiga-~~
10 ~~tion) may be conducted with respect to information about~~
11 ~~a failure to comply with the requirements under this sub-~~
12 ~~section, unless the Secretary receives the information not~~
13 ~~later than 24 months after the date of the alleged failure.~~

14 ~~“(v)(I) Subject to subclause (III), before commencing~~
15 ~~an investigation of an employer under clause (i) or (ii),~~
16 ~~the Secretary shall provide notice to the employer of the~~
17 ~~intent to conduct such investigation.~~

18 ~~“(II) The notice required by subclause (I) shall be~~
19 ~~provided in such a manner, and shall contain sufficient~~
20 ~~detail, to permit the employer to respond to the allegations~~
21 ~~before an investigation is commenced.~~

22 ~~“(III) The Secretary is not required to comply with~~
23 ~~this clause if the Secretary determines that to do so would~~
24 ~~interfere with an effort by the Secretary to investigate or~~

1 secure compliance by the employer with the requirements
2 of this subsection.

3 “(IV) There shall be no judicial review of a deter-
4 mination by the Secretary under this clause.

5 “(vi) If the Secretary, after an investigation under
6 clause (i) or (ii), determines that a reasonable basis exists
7 to make a finding that the employer has failed to comply
8 with the requirements under this subsection, the Secretary
9 shall provide the interested parties with notice of such de-
10 termination and an opportunity for a hearing in accord-
11 ance with section 556 of title 5, United States Code, not
12 later than 120 days after the date of such determination.
13 If such a hearing is requested, the Secretary shall make
14 a finding concerning the matter by not later than 120 days
15 after the date of the hearing.

16 “(vii) If the Secretary, after a hearing, finds a rea-
17 sonable basis to believe that the employer has violated the
18 requirements under this subsection, the Secretary shall
19 impose a penalty under subparagraph (K).

20 “(viii)(I) The Secretary may conduct surveys of the
21 degree to which employers comply with the requirements
22 under this section.

23 “(H) The Secretary shall—

24 “(aa) conduct annual compliance audits of each
25 employer with more than 100 employees who work

1 in the United States if more than 15 percent of such
2 employees are nonimmigrants described in
3 101(a)(15)(L); and

4 “(bb) make available to the public an executive
5 summary or report describing the general findings of
6 the audits carried out pursuant to this subclause.”.

7 **SEC. 4307. PENALTIES.**

8 Section 214(e)(2) (8 U.S.C. 1184(e)(2)), as amended
9 by sections 4302, 4303, 4304, and 4306, is further
10 amended by adding at the end the following:

11 “(K)(i) If the Secretary of Homeland Security finds,
12 after notice and an opportunity for a hearing, a failure
13 by an employer to meet a condition under subparagraph
14 (F), (G), or (L) or a misrepresentation of material fact
15 in a petition to employ 1 or more aliens as nonimmigrants
16 described in section 101(a)(15)(L)—

17 “(I) the Secretary shall impose such administrative
18 remedies (including civil monetary penalties in an amount
19 not to exceed \$2,000 per violation) as the Secretary deter-
20 mines to be appropriate;

21 “(H) the Secretary may not, during a period of at
22 least 1 year, approve a petition for that employer to em-
23 ploy 1 or more aliens as such nonimmigrants; and

1 ~~“(III) in the case of a violation of subparagraph (J),~~
2 the employer shall be liable to the employees harmed by
3 such violation for lost wages and benefits.

4 ~~“(ii) If the Secretary finds, after notice and an oppor-~~
5 tunity for a hearing, a willful failure by an employer to
6 meet a condition under subparagraph (F), (G), or (L) or
7 a willful misrepresentation of material fact in a petition
8 to employ 1 or more aliens as nonimmigrants described
9 in section 101(a)(15)(L)—

10 ~~“(I) the Secretary shall impose such adminis-~~
11 trative remedies (including civil monetary penalties
12 in an amount not to exceed \$10,000 per violation)
13 as the Secretary determines to be appropriate;

14 ~~“(II) the Secretary may not, during a period of~~
15 at least 2 years, approve a petition filed for that em-
16 ployer to employ 1 or more aliens as such non-
17 immigrants; and

18 ~~“(III) in the case of a violation of subparagraph~~
19 ~~(J), the employer shall be liable to the employees~~
20 ~~harmed by such violation for lost wages and bene-~~
21 ~~fits.”.~~

1 **SEC. 4308. PROHIBITION ON RETALIATION AGAINST L NON-**
2 **IMMIGRANTS.**

3 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
4 by sections 4302, 4303, 4303, 4306, and 4307, is further
5 amended by adding at the end the following:

6 “(L)(i) It is a violation of this subparagraph for an
7 employer who has filed a petition to import 1 or more
8 aliens as nonimmigrants described in section
9 101(a)(15)(L) to take, fail to take, or threaten to take
10 or fail to take, a personnel action, or to intimidate, threat-
11 en, restrain, coerce, blacklist, discharge, or discriminate
12 in any other manner against an employee because the em-
13 ployee—

14 “(I) has disclosed information that the em-
15 ployee reasonably believes evidences a violation of
16 this subsection, or any rule or regulation pertaining
17 to this subsection; or

18 “(II) cooperates or seeks to cooperate with the
19 requirements of this subsection, or any rule or regu-
20 lation pertaining to this subsection.

21 “(ii) In this subparagraph, the term ‘employee’ in-
22 cludes—

23 “(I) a current employee;

24 “(II) a former employee; and

25 “(III) an applicant for employment.”.

1 **SEC. 4309. REPORTS ON L NONIMMIGRANTS.**

2 Section 214(c)(8) (8 U.S.C. 1184(c)(8)) is amended
3 by inserting “(L),” after “(H).”

4 **SEC. 4310. APPLICATION.**

5 The amendments made by this subtitle shall apply to
6 applications filed on or after the date of the enactment
7 of this Act.

8 **SEC. 4311. REPORT ON L BLANKET PETITION PROCESS.**

9 (a) **REQUIREMENT FOR REPORT.**—Not later than 6
10 months after the date of the enactment of this Act, the
11 Inspector General of the Department of Homeland Secu-
12 rity shall submit to the appropriate committees of Con-
13 gress a report regarding the use of blanket petitions under
14 section 214(c)(2)(A) of the Immigration and Nationality
15 Act (8 U.S.C. 1184(c)(2)(A)). Such report shall assess the
16 efficiency and reliability of the process for reviewing such
17 blanket petitions, including whether the process includes
18 adequate safeguards against fraud and abuse.

19 (b) **APPROPRIATE COMMITTEES OF CONGRESS.**—In
20 this section the term “appropriate committees of Con-
21 gress” means—

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

24 (2) the Committee on the Judiciary of the Sen-
25 ate;

1 ~~(3) the Committee on Homeland Security of the~~
2 ~~House of Representatives; and~~

3 ~~(4) the Committee on the Judiciary of the~~
4 ~~House of Representatives.~~

5 **Subtitle D—Other Nonimmigrant**
6 **Visas**

7 **SEC. 4401. NONIMMIGRANT VISAS FOR STUDENTS.**

8 ~~(a) AUTHORIZATION OF DUAL INTENT FOR F NON-~~
9 ~~IMMIGRANTS SEEKING BACHELOR’S OR GRADUATE DE-~~
10 ~~GREES.—~~

11 ~~(1) IN GENERAL.—Section 101(a)(15)(F) (8~~
12 ~~U.S.C. 1101(a)(15)(F)) is amended to read as fol-~~
13 ~~lows:~~

14 ~~“(F)(i) an alien having a residence in a~~
15 ~~foreign country who is a bona fide student~~
16 ~~qualified to pursue a full course of study and~~
17 ~~who seeks to enter the United States tempo-~~
18 ~~rarily and solely for the purpose of pursuing~~
19 ~~such a course of study consistent with section~~
20 ~~214(m) at an accredited college, university, or~~
21 ~~language training program, or at an established~~
22 ~~seminary, conservatory, academic high school,~~
23 ~~elementary school, or other academic institution~~
24 ~~in the United States, particularly designated by~~
25 ~~the alien and approved by the Secretary of~~

1 Homeland Security after consultation with the
2 Secretary of Education, which institution or
3 place of study shall have agreed to report to the
4 Secretary of Homeland Security the termination
5 of attendance of each nonimmigrant student,
6 and if any such institution of learning or place
7 of study fails to make reports promptly the ap-
8 proval shall be withdrawn, except that such an
9 alien who is not seeking to pursue a degree that
10 is a bachelor's degree or a graduate degree shall
11 have a residence in a foreign country that the
12 alien has no intention of abandoning;

13 “(ii) the alien spouse and minor children of
14 any alien described in clause (i) if accom-
15 panying or following to join such an alien; and

16 “(iii) an alien who is a national of Canada
17 or Mexico, who maintains actual residence and
18 place of abode in the country of nationality,
19 who is described in clause (i) except that the
20 alien's qualifications for and actual course of
21 study may be full or part-time; and who com-
22 mutes to the United States institution or place
23 of study from Canada or Mexico.”.

1 (2) PRESUMPTION OF STATUS; INTENTION TO
2 ABANDON FOREIGN RESIDENCE.—Section 214 (8
3 U.S.C. 1184) is amended—

4 (A) in subsection (b), by striking “(L) or
5 (V)” and inserting “(F), (L), or (V)”;

6 (B) in subsection (h), by striking
7 “(H)(i)(b) or (c),” and inserting “(F),
8 (H)(i)(b), (H)(i)(c),”.

9 (b) ACCREDITATION REQUIREMENT FOR COLLEGES
10 AND UNIVERSITIES.—Section 101(a)(52) (8 U.S.C.
11 1101(a)(52)) is amended to read as follows:

12 “(52) Except as provided in section 214(m)(4),
13 the term ‘accredited college, university, or language
14 training program’ means a college, university, or
15 language training program that is accredited by an
16 accrediting agency recognized by the Secretary of
17 Education.”.

18 (c) OTHER REQUIREMENTS FOR ACADEMIC INSTITU-
19 TIONS.—Section 214(m) (8 U.S.C. 1184(m)) is amended
20 by adding at the end the following:

21 “(3) The Secretary of Homeland Security, in the Sec-
22 retary’s discretion, may require accreditation of an aca-
23 demic institution (except for seminaries or other religious
24 institutions) for purposes of section 101(a)(15)(F) if—

1 “(A) that institution is not already required to
2 be accredited under section 101(a)(15)(F)(i);

3 “(B) an appropriate accrediting agency recog-
4 nized by the Secretary of Education is able to pro-
5 vide such accreditation; and

6 “(C) the institution has or will have 25 or more
7 alien students accorded status as nonimmigrants
8 under clause (i) or (iii) of section 101(a)(15)(F)
9 pursuing a course of study at that institution.

10 “(4) The Secretary of Homeland Security, in the Sec-
11 retary’s discretion, may waive the accreditation require-
12 ment in section 101(a)(15)(F)(i) with respect to an estab-
13 lished college, university, or language training program if
14 the academic institution—

15 “(A) is otherwise in compliance with the re-
16 quirements of such section; and

17 “(B) is making a good faith effort to satisfy the
18 accreditation requirement.

19 “(5)(A) No person convicted of an offense referred
20 to in subparagraph (B) shall be permitted by any aca-
21 demic institution having authorization for attendance by
22 nonimmigrant students under section 101(a)(15)(F)(i) to
23 be involved with the institution as its principal, owner, of-
24 ficer, board member, general partner, or other similar po-
25 sition of substantive authority for the operations or man-

1 agement of the institution, including serving as an indi-
2 vidual designated by the institution to maintain records
3 required by the Student and Exchange Visitor Information
4 System established under section 641 of the Illegal Immi-
5 gration Reform and Immigrant Responsibility Act of 1996
6 (8 U.S.C. 1372).

7 “(B) An offense referred to in this subparagraph in-
8 cludes a violation, punishable by a term of imprisonment
9 of more than 1 year, of any of the following:

10 “(i) Chapter 77 of title 18, United States Code
11 (relating to peonage, slavery and trafficking in per-
12 sons).

13 “(ii) Chapter 117 of title 18, United States
14 Code (relating to transportation for illegal sexual ac-
15 tivity and related crimes).

16 “(iii) Section 274 of the Immigration and Na-
17 tionality Act (8 U.S.C. 1324) (relating to unlawful
18 bringing of aliens into the United States).

19 “(iv) Section 1546 of title 18, United States
20 Code (relating to fraud and misuse of visas, permits,
21 and other documents) relating to an academic insti-
22 tution’s participation in the Student and Exchange
23 Visitor Program.”.

1 (d) CONFORMING AMENDMENT.—Section
2 212(a)(6)(G) (8 U.S.C. 1182(a)(6)(G)) is amended by
3 striking “section 214(l)” and inserting “section 214(m)”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by subsections (a),
7 (b), and (c)—

8 (A) shall take effect on the date that is
9 180 days after the date of the enactment of this
10 Act; and

11 (B) shall apply with respect to applications
12 for a nonimmigrant visa under section
13 101(a)(15)(F)(i) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(15)(F)(i)) that
15 are filed on or after the effective date described
16 in subparagraph (A).

17 (2) TEMPORARY EXCEPTION.—

18 (A) IN GENERAL.—During the 3-year pe-
19 riod beginning on the date of the enactment of
20 this Act, an alien seeking to enter the United
21 States to pursue a course of study at a college
22 or university that has been certified by the Sec-
23 retary may be granted a nonimmigrant visa
24 under clause (i) or clause (iii) of section
25 101(a)(15)(F) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1101(a)(15)(F)) without re-
 2 gard to whether or not that college or university
 3 has been accredited or been denied accredita-
 4 tion by an entity described in section
 5 101(a)(52) of such Act (8 U.S.C. 1101(a)(52)),
 6 as amended by subsection (b).

7 (B) ADDITIONAL REQUIREMENT.—An
 8 alien may not be granted a nonimmigrant visa
 9 under subparagraph (A) if the college or univer-
 10 sity to which the alien seeks to enroll does
 11 not—

12 (i) submit an application for the ac-
 13 creditation of such institution to a regional
 14 or national accrediting agency recognized
 15 by the Secretary of Education on or before
 16 the date that is 1 year after the effective
 17 date described in paragraph (1)(A); and

18 (ii) comply with the applicable accred-
 19 iting requirements of such agency.

20 **SEC. 4402. CLASSIFICATION FOR SPECIALTY OCCUPATION**
 21 **WORKERS FROM FREE TRADE COUNTRIES.**

22 (a) NONIMMIGRANT STATUS.—Section
 23 101(a)(15)(E)(8 U.S.C. 1101(a)(15)(E)) is amended—

24 (1) in the matter preceding clause (i), by insert-
 25 ing “, bilateral investment treaty, or free trade

1 agreement” after “treaty of commerce and naviga-
2 tion”;

3 (2) in clause (ii), by striking “or” at the end;
4 and

5 (3) by adding at the end the following:

6 “(iv) solely to perform services in a
7 specialty occupation in the United States if
8 the alien is a national of a country, other
9 than Chile, Singapore, or Australia, with
10 which the United States has entered into a
11 free trade agreement (regardless of wheth-
12 er such an agreement is a treaty of com-
13 merce and navigation) and with respect to
14 whom the Secretary of Labor determines
15 and certifies to the Secretary of Homeland
16 Security and the Secretary of State that
17 the intending employer has filed with the
18 Secretary of Labor an attestation under
19 section 212(t); or

20 “(v) solely to perform services in a
21 specialty occupation in the United States if
22 the alien is a national of the Republic of
23 Korea and with respect to whom the Sec-
24 retary of Labor determines and certifies to
25 the Secretary of Homeland Security and

1 the Secretary of State that the intending
2 employer has filed with the Secretary of
3 Labor an attestation under section
4 212(t);”.

5 (b) FREE TRADE AGREEMENTS.—Section 214(g) (8
6 U.S.C. 1184(g)) is amended by adding at the end the fol-
7 lowing:

8 “(12)(A) The free trade agreements referred to in
9 section 101(a)(15)(E)(iv) are defined as any free trade
10 agreement designated by the Secretary of Homeland Secu-
11 rity with the concurrence of the United States Trade Rep-
12 resentative and the Secretary of State.

13 “(B) The Secretary of State may not approve a num-
14 ber of initial applications submitted for aliens described
15 in section 101(a)(15)(E)(iv) that is more than 5,000 per
16 fiscal year for each country with which the United States
17 has entered into a Free Trade Agreement.

18 “(C) The applicable numerical limitation referred to
19 in subparagraph (A) shall apply only to principal aliens
20 and not to the spouses or children of such aliens.”.

21 (c) NONIMMIGRANT PROFESSIONALS.—Section
22 212(t) (8 U.S.C. 1182(t)) is amended by striking “section
23 101(a)(15)(E)(iii)” each place that term appears and in-
24 serting “clause (iii) or (iv) of section 101(a)(15)(E)”.

1 **SEC. 4403. E-VISA REFORM.**

2 (a) NONIMMIGRANT CATEGORY.—Section
3 101(a)(15)(E)(iii) (8 U.S.C. 1101(a)(15)(E)(iii)) is
4 amended by inserting “, or solely to perform services as
5 an employee and who has at least a high school education
6 or its equivalent, or has, within 5 years, at least 2 years
7 of work experience in an occupation which requires at least
8 2 years of training or experience if the alien is a national
9 of the Republic of Ireland,” after “Australia”.

10 (b) TEMPORARY ADMISSION.—Section 212(d)(3)(A)
11 (8 U.S.C. 1182(d)(3)(A)) is amended to read as follows:

12 “(A) Except as otherwise provided in this sub-
13 section—

14 “(i) an alien who is applying for a non-
15 immigrant visa and who the consular officer
16 knows or believes to be ineligible for such visa
17 under subsection (a) (other than subparagraphs
18 (A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and
19 (E)(ii) of paragraph (3) of such subsection)—

20 “(I) after approval by the Secretary of
21 Homeland Security of a recommendation
22 by the Secretary of State or by the con-
23 sular officer that the alien be admitted
24 temporarily despite the alien’s inadmis-
25 sibility, may be granted such a visa and
26 may be admitted into the United States

1 temporarily as a nonimmigrant, in the dis-
2 cretion of the Secretary of Homeland Secu-
3 rity; or

4 “(H) absent such recommendation
5 and approval, be granted a nonimmigrant
6 visa pursuant to section 101(a)(15)(E) if
7 such ineligibility is based solely on conduct
8 in violation of paragraph (6), (7), or (9) of
9 section 212(a) that occurred before the
10 date of the enactment of the Border Secu-
11 rity, Economic Opportunity, and Immigra-
12 tion Modernization Act; and

13 “(ii) an alien who is inadmissible under
14 subsection (a) (other than subparagraphs
15 (A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and
16 (E)(ii) of paragraph (3) of such subsection), is
17 in possession of appropriate documents or was
18 granted a waiver from such document require-
19 ment, and is seeking admission, may be admit-
20 ted into the United States temporarily as a
21 nonimmigrant, in the discretion of the Sec-
22 retary of Homeland Security, who shall pre-
23 scribe conditions, including exaction of such
24 bonds as may be necessary, to control and regu-
25 late the admission and return of inadmissible

1 aliens applying for temporary admission under
2 this paragraph.”.

3 (c) NUMERICAL LIMITATION.—Section
4 214(g)(11)(B) (8 U.S.C. 1184(g)(11)(B)) is amended by
5 striking the period at the end and inserting “for each of
6 the nationalities identified under section
7 101(a)(15)(E)(iii).”.

8 **SEC. 4404. OTHER CHANGES TO NONIMMIGRANT VISAS.**

9 (a) PORTABILITY.—Paragraphs (1) and (2) of sec-
10 tion 214(n) (8 U.S.C. 1184(n)) are amended to read as
11 follows:

12 “(1) A nonimmigrant alien described in paragraph
13 (2) who was previously issued a visa or otherwise provided
14 nonimmigrant status under section 101(a)(15)(H)(i)(b) or
15 101(a)(15)(O)(i) is authorized to accept new employment
16 pursuant to such section upon the filing by the prospective
17 employer of a new petition on behalf of such nonimmigrant
18 as provided under subsection (a). Employment authoriza-
19 tion shall continue for such alien until the new petition
20 is adjudicated. If the new petition is denied, such author-
21 ization shall cease.

22 “(2) A nonimmigrant alien described in this para-
23 graph is a nonimmigrant alien—

24 “(A) who has been lawfully admitted into the
25 United States;

1 “(B) on whose behalf an employer has filed a
2 nonfrivolous petition for new employment before the
3 date of expiration of the period of stay authorized by
4 the Secretary of Homeland Security; and

5 “(C) who, subsequent to such lawful admission,
6 has not been employed without authorization in the
7 United States before the filing of such petition.”.

8 (b) WAIVER.—The undesignated material at the end
9 of section 214(e)(3) (8 U.S.C. 1184(e)(3)) is amended to
10 read as follows:

11 “The Secretary of Homeland Security shall provide by
12 regulation for the waiver of the consultation requirement
13 under subparagraph (A) in the case of aliens who have
14 been admitted as nonimmigrants under section
15 101(a)(15)(O)(i) because of extraordinary ability in the
16 arts or extraordinary achievement in motion picture or tel-
17 evision production and who seek readmission to perform
18 similar services within 3 years after the date of a consulta-
19 tion under such subparagraph provided that, in the case
20 of aliens admitted because of extraordinary achievement
21 in motion picture or television production, such waiver
22 shall apply only if the prior consultations by the appro-
23 priate union and management organization were favorable
24 or raised no objection to the approval of the petition. Not
25 later than 5 days after such a waiver is provided, the Sec-

1 retary shall forward a copy of the petition and all sup-
2 porting documentation to the national office of an appro-
3 priate labor organization.”.

4 **SEC. 4405. TREATMENT OF NONIMMIGRANTS DURING AD-**
5 **JUDICATION OF APPLICATION.**

6 Section 214 (8 U.S.C. 1184), as amended by sections
7 3609 and 4233, is further amended by adding at the end
8 the following:

9 “(u) **TREATMENT OF NONIMMIGRANTS DURING AD-**
10 **JUDICATION OF APPLICATION.**—A nonimmigrant alien
11 granted employment authorization pursuant to sections
12 101(a)(15)(A), 101(a)(15)(E), 101(a)(15)(G),
13 101(a)(15)(H), 101(a)(15)(I), 101(a)(15)(J),
14 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P),
15 101(a)(15)(Q), 101(a)(15)(R), 214(e), and such other sec-
16 tions as the Secretary of Homeland Security may by regu-
17 lations prescribe whose status has expired but who has,
18 or whose sponsoring employer or authorized agent has,
19 filed a timely application or petition for an extension of
20 such employment authorization and nonimmigrant status
21 as provided under subsection (a) is authorized to continue
22 employment with the same employer until the application
23 or petition is adjudicated. Such authorization shall be sub-
24 ject to the same conditions and limitations as the initial
25 grant of employment authorization.”.

1 **SEC. 4406. NONIMMIGRANT ELEMENTARY AND SECONDARY**
2 **SCHOOL STUDENTS.**

3 Section 214(m)(1)(B) (8 U.S.C. 1184(m)(1)(B)) is
4 amended striking “unless—” and all that follows through
5 “(ii)” and inserting “unless”.

6 **Subtitle E—JOLT Act**

7 **SEC. 4501. SHORT TITLES.**

8 This subtitle may be cited as the “Jobs Originated
9 through Launching Travel Act of 2013” or the “JOLT
10 Act of 2013”.

11 **SEC. 4502. PREMIUM PROCESSING.**

12 Section 221 (8 U.S.C. 1201) is amended by inserting
13 at the end the following:

14 “(j) PREMIUM PROCESSING.—

15 “(1) PILOT PROCESSING SERVICE.—Recogn-
16 nizing that the best solution for expedited processing
17 is low interview wait times for all applicants, the
18 Secretary of State shall nevertheless establish, on a
19 limited, pilot basis only, a fee-based premium proe-
20 essing service to expedite interview appointments. In
21 establishing a pilot processing service, the Secretary
22 may—

23 “(A) determine the consular posts at which
24 the pilot service will be available;

25 “(B) establish the duration of the pilot
26 service;

1 “(C) define the terms and conditions of the
2 pilot service, with the goal of expediting visa
3 appointments and the interview process for
4 those electing to pay said fee for the service;
5 and

6 “(D) resources permitting, during the pilot
7 service, consider the addition of consulates in
8 locations advantageous to foreign policy objec-
9 tives or in highly populated locales.

10 “(2) FEES.—

11 “(A) AUTHORITY TO COLLECT.—The Sec-
12 retary of State is authorized to collect, and set
13 the amount of, a fee imposed for the premium
14 processing service. The Secretary of State shall
15 set the fee based on all relevant considerations
16 including, the cost of expedited service.

17 “(B) USE OF FEES.—Fees collected under
18 the authority of subparagraph (A) shall be de-
19 posited as an offsetting collection to any De-
20 partment of State appropriation, to recover the
21 costs of providing consular services. Such fees
22 shall remain available for obligation until ex-
23 pended.

24 “(C) RELATIONSHIP TO OTHER FEES.—
25 Such fee is in addition to any existing fee cur-

1 rently being collected by the Department of
2 State.

3 “(D) NONREFUNDABLE.—Such fee will be
4 nonrefundable to the applicant.

5 “(3) DESCRIPTION OF PREMIUM PROC-
6 ESSING.—Premium processing pertains solely to the
7 expedited scheduling of a visa interview. Utilizing
8 the premium processing service for an expedited
9 interview appointment does not establish the appli-
10 cant’s eligibility for a visa. The Secretary of State
11 shall, if possible, inform applicants utilizing the pre-
12 mium processing of potential delays in visa issuance
13 due to additional screening requirements, including
14 necessary security-related checks and clearances.

15 “(4) REPORT TO CONGRESS.—

16 “(A) REQUIREMENT FOR REPORT.—Not
17 later than 18 months after the date of the en-
18 actment of the JOLT Act of 2013, the Sec-
19 retary of State shall submit to the appropriate
20 committees of Congress a report on the results
21 of the pilot service carried out under this sec-
22 tion.

23 “(B) APPROPRIATE COMMITTEES OF CON-
24 GRESS DEFINED.—In this paragraph, the term
25 ‘appropriate committees of Congress’ means—

1 “(i) the Committee on the Judiciary,
2 the Committee on Foreign Relations, and
3 the Committee on Appropriations of the
4 Senate; and

5 “(ii) the Committee on the Judiciary,
6 the Committee on Foreign Affairs, and the
7 Committee on Appropriations of the House
8 of Representatives.”.

9 **SEC. 4503. ENCOURAGING CANADIAN TOURISM TO THE**
10 **UNITED STATES.**

11 Section 214 (8 U.S.C. 1184), as amended by sections
12 3609, ~~4233~~, and 4405, is further amended by adding at
13 the end the following:

14 “(v) CANADIAN RETIREES.—

15 “(1) IN GENERAL.—The Secretary of Homeland
16 Security may admit as a visitor for pleasure as de-
17 scribed in section 101(a)(15)(B) any alien for a pe-
18 riod not to exceed 240 days, if the alien dem-
19 onstrates, to the satisfaction of the Secretary, that
20 the alien—

21 “(A) is a citizen of Canada;

22 “(B) is at least 55 years of age;

23 “(C) maintains a residence in Canada;

24 “(D) owns a residence in the United States
25 or has signed a rental agreement for accom-

1 modations in the United States for the duration
2 of the alien's stay in the United States;

3 “(E) is not inadmissible under section 212;

4 “(F) is not described in any ground of de-
5 portability under section 237;

6 “(G) will not engage in employment or
7 labor for hire in the United States; and

8 “(H) will not seek any form of assistance
9 or benefit described in section 403(a) of the
10 Personal Responsibility and Work Opportunity
11 Reconciliation Act of 1996 (8 U.S.C. 1613(a)).

12 “(2) SPOUSE.—The spouse of an alien de-
13 scribed in paragraph (1) may be admitted under the
14 same terms as the principal alien if the spouse satis-
15 fies the requirements of paragraph (1), other than
16 subparagraph (D).

17 “(3) IMMIGRANT INTENT.—In determining eli-
18 gibility for admission under this subsection, mainte-
19 nance of a residence in the United States shall not
20 be considered evidence of intent by the alien to
21 abandon the alien's residence in Canada.

22 “(4) PERIOD OF ADMISSION.—During any sin-
23 gle 365-day period, an alien may be admitted as de-
24 scribed in section 101(a)(15)(B) pursuant to this
25 subsection for a period not to exceed 240 days, be-

1 ginning on the date of admission. Periods of time
2 spent outside the United States during such 240-day
3 period shall not toll the expiration of such 240-day
4 period.”.

5 **SEC. 4504. RETIREE VISA.**

6 (a) **NONIMMIGRANT STATUS.**—Section 101(a)(15) is
7 amended by inserting after subparagraph (W) the fol-
8 lowing:

9 “(Y) subject to section 214(w), an alien
10 who, after the date of the enactment of the
11 JOLT Act of 2013—

12 “(i)(I) uses at least \$500,000 in cash
13 to purchase 1 or more residences in the
14 United States, which each sold for more
15 than 100 percent of the most recent ap-
16 praised value of such residence, as deter-
17 mined by the property assessor in the city
18 or county in which the residence is located;

19 “(II) maintains ownership of residen-
20 tial property in the United States worth at
21 least \$500,000 during the entire period the
22 alien remains in the United States as a
23 nonimmigrant described in this subpara-
24 graph; and

1 ~~“(III) resides for more than 180 days~~
2 ~~per year in a residence in the United~~
3 ~~States that is worth at least \$250,000; and~~
4 ~~“(ii) the alien spouse and children of~~
5 ~~the alien described in clause (i) if accom-~~
6 ~~panying or following to join the alien.”.~~

7 (b) ~~VISA APPLICATION PROCEDURES.—Section 214~~
8 ~~(8 U.S.C. 1184), as amended by sections 3609, 4233,~~
9 ~~4405, and 4503, is further amended by adding at the end~~
10 ~~the following:~~

11 ~~“(w) VISAS OF NONIMMIGRANTS DESCRIBED IN SEC-~~
12 ~~TION 101(a)(15)(Y).—~~

13 ~~“(1) The Secretary of Homeland Security shall~~
14 ~~authorize the issuance of a nonimmigrant visa to~~
15 ~~any alien described in section 101(a)(15)(Y) who~~
16 ~~submits a petition to the Secretary that dem-~~
17 ~~onstrates, to the satisfaction of the Secretary, that~~
18 ~~the alien—~~

19 ~~“(A) has purchased a residence in the~~
20 ~~United States that meets the criteria set forth~~
21 ~~in section 101(a)(15)(Y)(i);~~

22 ~~“(B) is at least 55 years of age;~~

23 ~~“(C) possesses health insurance coverage;~~

24 ~~“(D) is not inadmissible under section 212;~~

25 ~~and~~

1 “(E) will comply with the terms set forth
2 in paragraph (2).

3 ~~“(2) An alien who is issued a visa under this~~
4 ~~subsection—~~

5 ~~“(A) shall reside in the United States at a~~
6 ~~residence that meets the criteria set forth in~~
7 ~~section 101(a)(15)(Y)(i) for more than 180~~
8 ~~days per year;~~

9 ~~“(B) is not authorized to engage in em-~~
10 ~~ployment in the United States, except for em-~~
11 ~~ployment that is directly related to the manage-~~
12 ~~ment of the residential property described in~~
13 ~~section 101(Y)(i)(H);~~

14 ~~“(C) is not eligible for any form of assist-~~
15 ~~ance or benefit described in section 403(a) of~~
16 ~~the Personal Responsibility and Work Oppor-~~
17 ~~tunity Reconciliation Act of 1996 (8 U.S.C.~~
18 ~~1613(a)); and~~

19 ~~“(D) may renew such visa every 3 years~~
20 ~~under the same terms and conditions.”.~~

21 **SEC. 4505. INCENTIVES FOR FOREIGN VISITORS VISITING**
22 **THE UNITED STATES DURING LOW PEAK SEA-**
23 **SONS.**

24 The Secretary of State shall make publically avail-
25 able, on a monthly basis, historical data, for the previous

1 2 years, regarding the availability of visa appointments for
2 each visa processing post, to allow applicants to identify
3 periods of low demand, when wait times tend to be lower.

4 **SEC. 4506. VISA WAIVER PROGRAM ENHANCED SECURITY**
5 **AND REFORM.**

6 (a) DEFINITIONS.—Section 217(e)(1) (8 U.S.C.
7 1187(e)(1)) is amended to read as follows:

8 “(1) AUTHORITY TO DESIGNATE; DEFINI-
9 TIONS.—

10 “(A) AUTHORITY TO DESIGNATE.—The
11 Secretary of Homeland Security, in consultation
12 with the Secretary of State, may designate any
13 country as a program country if that country
14 meets the requirements under paragraph (2).

15 “(B) DEFINITIONS.—In this subsection:

16 “(i) APPROPRIATE CONGRESSIONAL
17 COMMITTEES.—The term ‘appropriate con-
18 gressional committees’ means—

19 “(I) the Committee on Foreign
20 Relations, the Committee on Home-
21 land Security and Governmental Af-
22 fairs, and the Committee on the Judi-
23 ciary of the Senate; and

24 “(II) the Committee on Foreign
25 Affairs, the Committee on Homeland

1 Security, and the Committee on the
2 Judiciary of the House of Representa-
3 tives.

4 “(ii) OVERSTAY RATE.—

5 “(I) INITIAL DESIGNATION.—The
6 term ‘overstay rate’ means, with re-
7 spect to a country being considered
8 for designation in the program, the
9 ratio of—

10 “(aa) the number of nation-
11 als of that country who were ad-
12 mitted to the United States on
13 the basis of a nonimmigrant visa
14 under section 101(a)(15)(B)
15 whose periods of authorized stay
16 ended during a fiscal year but
17 who remained unlawfully in the
18 United States beyond such peri-
19 ods; to

20 “(bb) the number of nation-
21 als of that country who were ad-
22 mitted to the United States on
23 the basis of a nonimmigrant visa
24 under section 101(a)(15)(B)

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1 whose periods of authorized stay
2 ended during that fiscal year.

3 “(H) CONTINUING DESIGNA-
4 TION.—The term ‘overstay rate’
5 means, for each fiscal year after ini-
6 tial designation under this section
7 with respect to a country, the ratio
8 of—

9 “(aa) the number of nation-
10 als of that country who were ad-
11 mitted to the United States
12 under this section or on the basis
13 of a nonimmigrant visa under
14 section 101(a)(15)(B) whose pe-
15 riods of authorized stay ended
16 during a fiscal year but who re-
17 mained unlawfully in the United
18 States beyond such periods; to

19 “(bb) the number of nation-
20 als of that country who were ad-
21 mitted to the United States
22 under this section or on the basis
23 of a nonimmigrant visa under
24 section 101(a)(15)(B) whose pe-

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1 riods of authorized stay ended
2 during that fiscal year.

3 “~~(III)~~ COMPUTATION OF OVER-
4 STAY RATE.—In determining the over-
5 stay rate for a country, the Secretary
6 of Homeland Security may utilize in-
7 formation from any available data-
8 bases to ensure the accuracy of such
9 rate.

10 “~~(iii)~~ PROGRAM COUNTRY.—The term
11 ‘program country’ means a country des-
12 ignated as a program country under sub-
13 paragraph (A).”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
15 Section 217 (8 U.S.C. 1187) is amended—

16 (1) by striking “Attorney General” each place
17 the term appears (except in subsection (e)(11)(B))
18 and inserting “Secretary of Homeland Security”;
19 and

20 (2) in subsection (e)—

21 (A) in paragraph (2)(C)(iii), by striking
22 “Committee on the Judiciary and the Com-
23 mittee on International Relations of the House
24 of Representatives and the Committee on the
25 Judiciary and the Committee on Foreign Rela-

1 tions of the Senate” and inserting “appropriate
2 congressional committees”;

3 (B) in paragraph (5)(A)(i)(III), by striking
4 “Committee on the Judiciary, the Committee on
5 Foreign Affairs, and the Committee on Home-
6 land Security, of the House of Representatives
7 and the Committee on the Judiciary, the Com-
8 mittee on Foreign Relations, and the Com-
9 mittee on Homeland Security and Govern-
10 mental Affairs of the Senate” and inserting
11 “appropriate congressional committees”; and

12 (C) in paragraph (7), by striking subpara-
13 graph (E).

14 (e) DESIGNATION OF PROGRAM COUNTRIES BASED
15 ON OVERSTAY RATES.—

16 (1) IN GENERAL.—Section 217(c)(2)(A) (8
17 U.S.C. 1187(c)(2)(A)) is amended to read as fol-
18 lows:

19 “(A) GENERAL NUMERICAL LIMITA-
20 TIONS.—

21 “(i) LOW NONIMMIGRANT VISA RE-
22 FUSAL RATE.—The percentage of nationals
23 of that country refused nonimmigrant visas
24 under section 101(a)(15)(B) during the
25 previous full fiscal year was not more than

1 3 percent of the total number of nationals
2 of that country who were granted or re-
3 fused nonimmigrant visas under such sec-
4 tion during such year.

5 “(ii) LOW NONIMMIGRANT OVERSTAY
6 RATE.—The overstay rate for that country
7 was not more than 3 percent during the
8 previous fiscal year.”.

9 (2) QUALIFICATION CRITERIA.—Section
10 217(e)(3) (8 U.S.C. 1187(e)(3)) is amended to read
11 as follows:

12 “(3) QUALIFICATION CRITERIA.—After designa-
13 tion as a program country under section 217(e)(2),
14 a country may not continue to be designated as a
15 program country unless the Secretary of Homeland
16 Security, in consultation with the Secretary of State,
17 determines, pursuant to the requirements under
18 paragraph (5), that the designation will be contin-
19 ued.”.

20 (3) INITIAL PERIOD.—Section 217(e) is further
21 amended by striking paragraph (4).

22 (4) CONTINUING DESIGNATION.—Section
23 217(e)(5)(A)(i)(II) (8 U.S.C. 1187(e)(5)(A)(i)(II)) is
24 amended to read as follows:

1 “(H) shall determine,
2 based upon the evaluation in
3 subclause (I), whether any
4 such designation under sub-
5 section (d) or (f), or proba-
6 tion under subsection (f),
7 ought to be continued or ter-
8 minated;”.

9 (5) COMPUTATION OF VISA REFUSAL RATES;
10 JUDICIAL REVIEW.—Section 217(c)(6) (8 U.S.C.
11 1187(c)(6)) is amended to read as follows:

12 “(6) COMPUTATION OF VISA REFUSAL RATES
13 AND JUDICIAL REVIEW.—

14 “(A) COMPUTATION OF VISA REFUSAL
15 RATES.—For purposes of determining the eligi-
16 bility of a country to be designated as a pro-
17 gram country, the calculation of visa refusal
18 rates shall not include any visa refusals which
19 incorporate any procedures based on, or are
20 otherwise based on, race, sex, or disability, un-
21 less otherwise specifically authorized by law or
22 regulation.

23 “(B) JUDICIAL REVIEW.—No court shall
24 have jurisdiction under this section to review
25 any visa refusal, the Secretary of State’s com-

1 putation of a visa refusal rate; the Secretary of
2 Homeland Security's computation of an over-
3 stay rate; or the designation or nondesignation
4 of a country as a program country.”.

5 (6) VISA WAIVER INFORMATION.—Section
6 217(e)(7) (8 U.S.C. 1187(e)(7)) is amended—

7 (A) by striking subparagraphs (B) through
8 (D); and

9 (B) by striking “WAIVER INFORMATION.—
10 ” and all that follows through “In refusing”
11 and inserting “WAIVER INFORMATION.—In re-
12 fusing”.

13 (7) WAIVER AUTHORITY.—Section 217(e)(8) (8
14 U.S.C. 1187(e)(8)) is amended to read as follows:

15 “(8) WAIVER AUTHORITY.—The Secretary of
16 Homeland Security, in consultation with the Sec-
17 retary of State, may waive the application of para-
18 graph (2)(A)(i) for a country if—

19 “(A) the country meets all other require-
20 ments of paragraph (2);

21 “(B) the Secretary of Homeland Security
22 determines that the totality of the country's se-
23 curity risk mitigation measures provide assur-
24 ance that the country's participation in the pro-
25 gram would not compromise the law enforce-

1 ment, security interests, or enforcement of the
2 immigration laws of the United States;

3 “(C) there has been a general downward
4 trend in the percentage of nationals of the
5 country refused nonimmigrant visas under sec-
6 tion 101(a)(15)(B);

7 “(D) the country consistently cooperated
8 with the Government of the United States on
9 counterterrorism initiatives, information shar-
10 ing, preventing terrorist travel, and extradition
11 to the United States of individuals (including
12 the country’s own nationals) who commit
13 crimes that violate United States law before the
14 date of its designation as a program country,
15 and the Secretary of Homeland Security and
16 the Secretary of State assess that such coopera-
17 tion is likely to continue; and

18 “(E) the percentage of nationals of the
19 country refused a nonimmigrant visa under sec-
20 tion 101(a)(15)(B) during the previous full fis-
21 cal year was not more than 10 percent of the
22 total number of nationals of that country who
23 were granted or refused such nonimmigrant
24 visas.”.

1 (d) TERMINATION OF DESIGNATION; PROBATION.—
2 Section 217(f) (8 U.S.C. 1187(f)) is amended to read as
3 follows:

4 “(f) TERMINATION OF DESIGNATION; PROBATION.—
5 “(1) DEFINITIONS.—In this subsection:

6 “(A) PROBATIONARY PERIOD.—The term
7 ‘probationary period’ means the fiscal year in
8 which a probationary country is placed in pro-
9 bationary status under this subsection.

10 “(B) PROGRAM COUNTRY.—The term ‘pro-
11 gram country’ has the meaning given that term
12 in subsection (c)(1)(B).

13 “(2) DETERMINATION, NOTICE, AND INITIAL
14 PROBATIONARY PERIOD.—

15 “(A) DETERMINATION OF PROBATIONARY
16 STATUS AND NOTICE OF NONCOMPLIANCE.—As
17 part of each program country’s periodic evalua-
18 tion required by subsection (c)(5)(A), the Sec-
19 retary of Homeland Security shall determine
20 whether a program country is in compliance
21 with the program requirements under subpara-
22 graphs (A)(ii) through (F) of subsection (c)(2).

23 “(B) INITIAL PROBATIONARY PERIOD.—If
24 the Secretary of Homeland Security determines
25 that a program country is not in compliance

1 with the program requirements under subpara-
2 graphs (A)(ii) through (F) of subsection (c)(2);
3 the Secretary of Homeland Security shall place
4 the program country in probationary status for
5 the fiscal year following the fiscal year in which
6 the periodic evaluation is completed.

7 “(3) ACTIONS AT THE END OF THE INITIAL
8 PROBATIONARY PERIOD.—At the end of the initial
9 probationary period of a country under paragraph
10 (2)(B), the Secretary of Homeland Security shall
11 take 1 of the following actions:

12 “(A) COMPLIANCE DURING INITIAL PROBA-
13 TIONARY PERIOD.—If the Secretary determines
14 that all instances of noncompliance with the
15 program requirements under subparagraphs
16 (A)(ii) through (F) of subsection (c)(2) that
17 were identified in the latest periodic evaluation
18 have been remedied by the end of the initial
19 probationary period, the Secretary shall end the
20 country’s probationary period.

21 “(B) NONCOMPLIANCE DURING INITIAL
22 PROBATIONARY PERIOD.—If the Secretary de-
23 termines that any instance of noncompliance
24 with the program requirements under subpara-
25 graphs (A)(ii) through (F) of subsection (c)(2)

1 that were identified in the latest periodic eval-
2 uation has not been remedied by the end of the
3 initial probationary period—

4 “(i) the Secretary may terminate the
5 country’s participation in the program; or

6 “(ii) on an annual basis, the Secretary
7 may continue the country’s probationary
8 status if the Secretary, in consultation
9 with the Secretary of State, determines
10 that the country’s continued participation
11 in the program is in the national interest
12 of the United States.

13 “(4) ACTIONS AT THE END OF ADDITIONAL
14 PROBATIONARY PERIODS.—At the end of all proba-
15 tionary periods granted to a country pursuant to
16 paragraph (3)(B)(ii), the Secretary shall take 1 of
17 the following actions:

18 “(A) COMPLIANCE DURING ADDITIONAL
19 PERIOD.—The Secretary shall end the country’s
20 probationary status if the Secretary determines
21 during the latest periodic evaluation required by
22 subsection (c)(5)(A) that the country is in com-
23 pliance with the program requirements under
24 subparagraphs (A)(ii) through (F) of subsection
25 (c)(2).

1 “(B) NONCOMPLIANCE DURING ADDI-
2 TIONAL PERIODS.—The Secretary shall termi-
3 nate the country’s participation in the program
4 if the Secretary determines during the latest
5 periodic evaluation required by subsection
6 (c)(5)(A) that the program country continues to
7 be in noncompliance with the program require-
8 ments under subparagraphs (A)(ii) through (F)
9 of subsection (c)(2).

10 “(5) EFFECTIVE DATE.—The termination of a
11 country’s participation in the program under para-
12 graph (3)(B) or (4)(B) shall take effect on the first
13 day of the first fiscal year following the fiscal year
14 in which the Secretary determines that such partici-
15 pation shall be terminated. Until such date, nation-
16 als of the country shall remain eligible for a waiver
17 under subsection (a).

18 “(6) TREATMENT OF NATIONALS AFTER TERMI-
19 NATION.—For purposes of this subsection and sub-
20 section (d)—

21 “(A) nationals of a country whose designa-
22 tion is terminated under paragraph (3) or (4)
23 shall remain eligible for a waiver under sub-
24 section (a) until the effective date of such ter-
25 mination; and

1 “(B) a waiver under this section that is
2 provided to such a national for a period de-
3 scribed in subsection (a)(1) shall not, by such
4 termination, be deemed to have been rescinded
5 or otherwise rendered invalid, if the waiver is
6 granted prior to such termination.

7 “(7) CONSULTATIVE ROLE OF THE SECRETARY
8 OF STATE.—In this subsection, references to sub-
9 paragraphs (A)(ii) through (F) of subsection (c)(2)
10 and subsection (c)(5)(A) carry with them the con-
11 sultative role of the Secretary of State as provided
12 in those provisions.”.

13 (e) REVIEW OF OVERSTAY TRACKING METHOD-
14 OLOGY.—Not later than 180 days after the date of the
15 enactment of this Act, the Comptroller General of the
16 United States shall conduct a review of the methods used
17 by the Secretary—

18 (1) to track aliens entering and exiting the
19 United States; and

20 (2) to detect any such alien who stays longer
21 than such alien’s period of authorized admission.

22 (f) EVALUATION OF ELECTRONIC SYSTEM FOR
23 TRAVEL AUTHORIZATION.—Not later than 90 days after
24 the date of the enactment of this Act, the Secretary shall
25 submit to Congress—

1 (1) an evaluation of the security risks of aliens
2 who enter the United States without an approved
3 Electronic System for Travel Authorization
4 verification; and

5 (2) a description of any improvements needed
6 to minimize the number of aliens who enter the
7 United States without the verification described in
8 paragraph (1).

9 (g) SENSE OF CONGRESS ON PRIORITY FOR REVIEW
10 OF PROGRAM COUNTRIES.—It is the sense of Congress
11 that the Secretary, in the process of conducting evalua-
12 tions of countries participating in the visa waiver program
13 under section 217 of the Immigration and Nationality Act
14 (8 U.S.C. 1187), should prioritize the reviews of countries
15 in which circumstances indicate that such a review is nec-
16 essary or desirable.

17 **SEC. 4507. EXPEDITING ENTRY FOR PRIORITY VISITORS.**

18 Section 7208(k)(4) of the Intelligence Reform and
19 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(4))
20 is amended to read as follows:

21 “(4) EXPEDITING ENTRY FOR PRIORITY VISI-
22 TORS.—

23 “(A) IN GENERAL.—The Secretary of
24 Homeland Security may expand the enrollment
25 across registered traveler programs to include

1 eligible individuals employed by international
2 organizations, selected by the Secretary, which
3 maintain strong working relationships with the
4 United States.

5 “(B) REQUIREMENTS.—An individual may
6 not be enrolled in a registered traveler program
7 unless—

8 “(i) the individual is sponsored by an
9 international organization selected by the
10 Secretary under subparagraph (A); and

11 “(ii) the government that issued the
12 passport that the individual is using has
13 entered into a Trusted Traveler Arrange-
14 ment with the Department of Homeland
15 Security to participate in a registered trav-
16 eler program.

17 “(C) SECURITY REQUIREMENTS.—An indi-
18 vidual may not be enrolled in a registered trav-
19 eler program unless the individual has success-
20 fully completed all applicable security require-
21 ments established by the Secretary, including
22 cooperation from the applicable foreign govern-
23 ment, to ensure that the individual does not
24 pose a risk to the United States.

1 “(D) DISCRETION.—Except as provided in
2 subparagraph (E), the Secretary shall retain
3 unreviewable discretion to offer or revoke en-
4 rollment in a registered traveler program to any
5 individual.

6 “(E) INELIGIBLE TRAVELERS.—An indi-
7 vidual who is a citizen of a state sponsor of ter-
8 rorism (as defined in section 301(13) of the
9 Comprehensive Iran Sanctions, Accountability,
10 and Divestment Act of 2010 (22 U.S.C.
11 8541(13)) may not be enrolled in a registered
12 traveler program.”.

13 **SEC. 4508. VISA PROCESSING.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law and not later than 90 days after the date of
16 the enactment of this Act, the Secretary of State shall—

17 (1) require United States diplomatic and con-
18 sular missions—

19 (A) to conduct visa interviews for non-
20 immigrant visa applications determined to re-
21 quire a consular interview in an expeditious
22 manner, consistent with national security re-
23 quirements, and in recognition of resource allo-
24 cation considerations, such as the need to en-

1 sure provision of consular services to citizens of
2 the United States;

3 (B) to set a goal of interviewing 80 percent
4 of all nonimmigrant visa applicants, worldwide,
5 within 3 weeks of receipt of application, subject
6 to the conditions outlined in subparagraph (A);
7 and

8 (C) to explore expanding visa processing
9 capacity in China and Brazil, with the goal of
10 maintaining interview wait times under 15 work
11 days on a consistent, year-round basis, recog-
12 nizing that demand can spike suddenly and un-
13 predictably and that the first priority of United
14 States missions abroad is the protection of citi-
15 zens of the United States; and

16 (2) submit to the appropriate committees of
17 Congress a detailed strategic plan that describes the
18 resources needed to carry out paragraph (1)(A).

19 (b) APPROPRIATE COMMITTEES OF CONGRESS.—In
20 this section, the term “appropriate committees of Con-
21 gress” means—

22 (1) the Committee on the Judiciary, the Com-
23 mittee on Foreign Relations, and the Committee on
24 Appropriations of the Senate; and

1 (2) the Committee on the Judiciary, the Com-
2 mittee on Foreign Affairs, and the Committee on
3 Appropriations of the House of Representatives.

4 (c) SEMI-ANNUAL REPORT.—Not later than 30 days
5 after the end of the first 6 months after the implementa-
6 tion of subsection (a); and not later than 30 days after
7 the end of each subsequent quarter, the Secretary of State
8 shall submit to the appropriate committees of Congress
9 a report that provides—

10 (1) data substantiating the efforts of the Sec-
11 retary of State to meet the requirements and goals
12 described in subsection (a);

13 (2) any factors that have negatively impacted
14 the efforts of the Secretary to meet such require-
15 ments and goals; and

16 (3) any measures that the Secretary plans to
17 implement to meet such requirements and goals.

18 (d) SAVINGS PROVISION.—

19 (1) IN GENERAL.—Nothing in subsection (a)
20 may be construed to affect a consular officer's au-
21 thority—

22 (A) to deny a visa application under sec-
23 tion 221(g) of the Immigration and Nationality
24 Act (8 U.S.C. 1201(g)); or

1 (B) to initiate any necessary or appro-
2 priate security-related check or clearance.

3 (2) SECURITY CHECKS.—The completion of a
4 security-related check or clearance shall not be sub-
5 ject to the time limits set out in subsection (a).

6 **Subtitle F—Reforms to the H-2B**
7 **Visa Program**

8 **SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP-**
9 **TION TO H-2B NUMERICAL LIMITATION.**

10 (a) IN GENERAL.—

11 (1) IN GENERAL.—Subparagraph (A) of para-
12 graph (10) of section 214(g) (8 U.S.C. 1184(g)), as
13 redesignated by section 4101(a)(3), is amended by
14 striking “fiscal year 2004, 2005, or 2006” and in-
15 serting “fiscal year 2013 shall not again be counted
16 toward such limitation during fiscal years 2014
17 through 2018.”.

18 (2) EFFECTIVE PERIOD.—The amendment
19 made by paragraph (1) shall be effective during the
20 period beginning on the effective date described in
21 subsection (c) and ending on September 30, 2018.

22 (b) TECHNICAL AND CLARIFYING AMENDMENTS.—

23 (1) NONIMMIGRANT STATUS.—Section
24 101(a)(15)(P) (8 U.S.C. 1101(a)(15)(P)) is amend-
25 ed—

1 (A) in clause (iii), by striking “or” at the
2 end;

3 (B) in clause (iv), by striking “clause (i),
4 (ii), or (iii),” and inserting “clause (i), (ii), (iii),
5 or (iv)”;

6 (C) by redesignating “clause (iv)” as
7 “clause (v)”; and

8 (D) by inserting after “clause (iii)” the fol-
9 lowing new clause:

10 “(iv) is a ski instructor seeking to
11 enter the United States temporarily to per-
12 form instructing services; or”.

13 (2) AUTHORIZED PERIOD OF STAY; NUMERICAL
14 LIMITATION.—Section 214(a)(2)(B) (8 U.S.C.
15 1184(a)(2)(B)) is amended in the second sentence—

16 (A) by inserting “or ski instructors” after
17 “athletes”; and

18 (B) by inserting “or ski instructor” after
19 “athlete”.

20 (3) CONSTRUCTION.—Nothing in the amend-
21 ments made by this subsection may be construed as
22 preventing an alien who is a ski instructor from ob-
23 taining nonimmigrant status under section
24 101(a)(15)(H)(ii)(b) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) if such
2 alien is otherwise qualified for such status.

3 (c) ~~EFFECTIVE DATE.~~—The amendment made by
4 subsection (a) shall take effect as if enacted on January
5 1, 2013.

6 **SEC. 4602. OTHER REQUIREMENTS FOR H-2B EMPLOYERS.**

7 (a) ~~IN GENERAL.~~—Section 214 (8 U.S.C. 1184), as
8 amended by sections 3609, 4233, 4405, 4503, and 4504,
9 is further amended by adding at the end the following:

10 “(x) ~~REQUIREMENTS FOR H-2B EMPLOYERS.~~—

11 “(1) ~~H-2B NONIMMIGRANT DEFINED.~~—In this
12 subsection the term ‘~~H-2B nonimmigrant~~’ means an
13 alien admitted to the United States pursuant to sec-
14 tion 101(a)(15)(H)(ii)(B).

15 “(2) ~~NON-DISPLACEMENT OF UNITED STATES~~
16 ~~WORKERS.~~—An employer who seeks to employ an
17 H-2B nonimmigrant admitted in an occupational
18 classification shall certify and attest that the em-
19 ployer did not displace and will not displace a
20 United States worker employed by the employer in
21 the same metropolitan statistical area where such
22 nonimmigrant will be hired within the period begin-
23 ning 90 days before the start date and ending on the
24 end date for which the employer is seeking the serv-

1 ices of such nonimmigrant as specified on an appli-
2 cation for labor certification under this Act.

3 “(3) ~~TRANSPORTATION COSTS.~~—The employer
4 shall pay the transportation costs, including reason-
5 able subsistence costs during the period of travel, for
6 an ~~H-2B~~ nonimmigrant hired by the employer—

7 “(A) from the place of recruitment to the
8 place of such nonimmigrant’s employment; and

9 “(B) from the place of employment to such
10 nonimmigrant’s place of permanent residence or
11 a subsequent worksite.

12 “(4) ~~PAYMENT OF FEES.~~—A fee related to the
13 hiring of an ~~H-2B~~ nonimmigrant required to be paid
14 by an employer under this Act shall be paid by the
15 employer and may not be deducted from the wages
16 or other compensation paid to an ~~H-2B~~ non-
17 immigrant.

18 “(5) ~~H-2B NONIMMIGRANT LABOR CERTIFI-~~
19 ~~CATION APPLICATION FEES.~~—

20 “(A) ~~IN GENERAL.~~—To recover costs of
21 carrying out labor certification activities under
22 the ~~H-2B~~ program, the Secretary of Labor shall
23 impose a \$500 fee on an employer that submits
24 an application for an employment certification
25 for aliens granted ~~H-2B~~ nonimmigrant status

1 to the Secretary of Labor under this subpara-
2 graph on or after the date that is 30 days after
3 the date of enactment of the Border Security,
4 Economic Opportunity, and Immigration Mod-
5 ernization Act.”.

6 “(B) USE OF FEES.—The fees collected
7 under subparagraph (A) shall be deposited in
8 the Comprehensive Immigration Reform Trust
9 Fund established under section 6 of the Border
10 Security, Economic Opportunity, and Immigra-
11 tion Modernization Act.”.

12 (b) EXECUTIVES AND MANAGERS.—Section 214 (8
13 U.S.C. 1184) is amended as follows:

14 (1) in subsection (a)(1), by adding at the end
15 “Aliens admitted under section 101(a)(15) should
16 include—

17 “(A) executives and managers employed by a
18 firm or corporation or other legal entity or an affil-
19 iate or subsidiary thereof who are principally sta-
20 tioned abroad and who seek to enter the United
21 States for periods of 90 days or less to oversee and
22 observe the United States operations of their related
23 companies, and establish strategic objectives when
24 needed; or

1 “(B) employees of multinational corporations
2 who enter the United States to observe the oper-
3 ations of a related United States company and par-
4 ticipate in select leadership and development train-
5 ing activities, whether or not the activity is part of
6 a formal or classroom training program for a period
7 not to exceed 180 days:

8 Nonimmigrant aliens admitted pursuant to section
9 101(a)(15) and engaged in the activities described in
10 the subparagraph (A) or (B) may not receive a sal-
11 ary from a United States source, except for inci-
12 dental expenses for meals, travel, lodging and other
13 basic services.”.

14 (e) HONORARIA.—Section 212(q) (8 U.S.C. 1182(q))
15 is amended to read as follows:

16 “(q)(1) Any alien admitted under section
17 101(a)(15)(B) may accept an honorarium payment and
18 associated incidental expenses, for a usual academic activ-
19 ity or activities (lasting not longer than 9 days at any sin-
20 gle institution), as defined by the Attorney General in con-
21 sultation with the Secretary of Education, or for a per-
22 formance, appearance and participation in United States
23 based programming, including scripted or unscripted pro-
24 gramming (with services not rendered for more than 60
25 days in a 6 month period) if the alien has received a letter

1 of invitation from the institution, organization, or media
2 outlet, such payment is offered by an institution, organiza-
3 tion, or media outlet described in paragraph (2) and is
4 made for services conducted for the benefit of that institu-
5 tion, entity or media outlet and if the alien has not accept-
6 ed such payment or expenses from more than 5 institu-
7 tions, organizations, or media outlets in the previous 6-
8 month period. Any alien who is admitted under section
9 101(a)(15)(B) or any other valid visa may perform serv-
10 ices under this section without reentering the United
11 States and without a letter of invitation, if the alien does
12 not receive any remuneration including an honorarium
13 payment or incidental expenses, but may receive prize
14 money.

15 “(2) An institution, organization, or media outlet de-
16 scribed in this paragraph—

17 “(A) an institution of higher education (as de-
18 fined in section 101(a) of the Higher Education Act
19 of 1965 (20 U.S.C. 1001(a))) or a related or affili-
20 ated nonprofit entity;

21 “(B) a nonprofit research organization or a
22 Governmental research organization; and

23 “(C) a broadcast network, cable entity, produc-
24 tion company, new media, internet and mobile based

1 companies, who create or distribute programming
2 content.”.

3 **SEC. 4603. NONIMMIGRANTS PARTICIPATING IN RELIEF OP-**
4 **ERATIONS.**

5 Section 214 (8 U.S.C. 1184), as amended by sections
6 3609, 4233, 4405, 4503, 4504, and 4602, is further
7 amended by adding at the end following:

8 “(y) NONIMMIGRANTS PARTICIPATING IN RELIEF
9 OPERATIONS.—

10 “(1) IN GENERAL.—An alien coming individ-
11 ually, or aliens coming as a group, to participate in
12 relief operations, including critical infrastructure re-
13 pairs or improvements, needed in response to a Fed-
14 eral or State declared emergency or disaster, may be
15 admitted to the United States pursuant to section
16 101(a)(15)(B) for a period of not more than 90 days
17 if each such alien has been employed in a foreign
18 country by 1 employer for not less than 1 year prior
19 to the date the alien is so admitted.

20 “(2) PROHIBITION ON INCOME FROM A UNITED
21 STATES SOURCE.—During a period of admission
22 pursuant to paragraph (1), an alien may not receive
23 income from a United States source, except for inci-
24 dental expenses for meals, travel, lodging, and other
25 basic services.”.

1 **SEC. 4604. NONIMMIGRANTS PERFORMING MAINTENANCE**
2 **ON COMMON CARRIERS.**

3 Section 214 (8 U.S.C. 1184), as amended by sections
4 3609, 4233, 4405, 4503, 4504, 4602, and 4603, is further
5 amended by adding at the end following:

6 ~~“(z) NONIMMIGRANTS PERFORMING MAINTENANCE~~
7 ~~ON COMMON CARRIER.—~~

8 ~~“(1) IN GENERAL.—An alien coming individ-~~
9 ~~ually, or aliens coming as a group, who possess spe-~~
10 ~~cialized knowledge to perform maintenance or re-~~
11 ~~pairs for common carriers, including to airlines,~~
12 ~~cruise lines, and railways, if such maintenance or re-~~
13 ~~pairs are occurring to equipment or machinery man-~~
14 ~~ufactured outside of the United States and are need-~~
15 ~~ed for purposes relating to life, health, and safety,~~
16 ~~may be admitted to the United States pursuant to~~
17 ~~section 101(a)(15)(B) for a period of not more than~~
18 ~~90 days if each such alien has been employed in a~~
19 ~~foreign country by 1 employer for not less than 1~~
20 ~~year prior to the date the alien is so admitted.~~

21 ~~“(2) PROHIBITION ON INCOME FROM A UNITED~~
22 ~~STATES SOURCE.—During a period of admission~~
23 ~~pursuant to paragraph (1), an alien may not receive~~
24 ~~a income from a United States source, except for in-~~
25 ~~cidental expenses for meals, travel, lodging, and~~
26 ~~other basic services.~~

1 ~~“(3) FEE.—~~

2 ~~“(A) IN GENERAL.—An alien admitted~~
3 ~~pursuant to paragraph (1) shall pay a fee of~~
4 ~~\$500.~~

5 ~~“(B) USE OF FEE.—The fees collected~~
6 ~~under subparagraph (A) shall be deposited in~~
7 ~~the Comprehensive Immigration Reform Trust~~
8 ~~Fund established under section 6 of the Border~~
9 ~~Security, Economic Opportunity, and Immigra-~~
10 ~~tion Modernization Act”.~~

11 **Subtitle G—W Nonimmigrant Visas**

12 **SEC. 4701. BUREAU OF IMMIGRATION AND LABOR MARKET** 13 **RESEARCH.**

14 ~~(a) DEFINITIONS.—In this section:~~

15 ~~(1) BUREAU.—Except as otherwise specifically~~
16 ~~provided, the term “Bureau” means the Bureau of~~
17 ~~Immigration and Labor Market Research established~~
18 ~~under subsection (b).~~

19 ~~(2) COMMISSIONER.—The term “Commis-~~
20 ~~sioner” means the Commissioner of the Bureau.~~

21 ~~(3) CONSTRUCTION OCCUPATION.—The term~~
22 ~~“construction occupation” means an occupation de-~~
23 ~~finied by the Bureau of Labor Statistics as being~~
24 ~~within the construction industry for the purposes of~~
25 ~~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 to determine the annual change to
16 the numerical limitation for nonimmigrant aliens de-
17 scribed in subparagraph (W)(i) of section 101(a)(15)
18 of the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)), as added by section 4702.

20 (2) To determine and to publish in the Federal
21 Register the annual change to the numerical limita-
22 tion for nonimmigrant aliens described in subpara-
23 graph (W)(i) of section 101(a)(15) of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1101(a)(15)), as
25 added by section 4702.

1 (3) With respect to the W visa program, to sup-
2 plement the recruitment methods employers may use
3 to attract such nonimmigrant aliens.

4 (4) With respect to the W visa program, to de-
5 vise a methodology subject to publication in the Fed-
6 eral Register and an opportunity for public comment
7 to designate shortage occupations in zone 1 occupa-
8 tions, zone 2 occupations, and zone 3 occupations.

9 (5) With respect to the W visa program, to des-
10 ignate shortage occupations in any zone 1 occupa-
11 tion, zone 2 occupation, or zone 3 occupation and
12 publish such occupations in the Federal Register.

13 (6) With respect to the W visa program, to con-
14 duct a survey once every 3 months of the unemploy-
15 ment rate of zone 1 occupations, zone 2 occupations,
16 or zone 3 occupations that are construction occupa-
17 tions in each metropolitan statistical area.

18 (7) To study and report to Congress on employ-
19 ment-based immigrant and nonimmigrant visa pro-
20 grams in the United States and to make annual rec-
21 ommendations to improve such programs.

22 (8) To carry out any functions required to
23 carry out the duties described in paragraphs (1)
24 through (7).

1 (e) DETERMINATION OF CHANGES TO NUMERICAL
2 LIMITATIONS.—The methodology required under sub-
3 section (d)(1) shall be published in the Federal Register
4 not later than 18 months after the date of the enactment
5 of this Act.

6 (f) DESIGNATION OF SHORTAGE OCCUPATIONS.—

7 (1) METHODS TO DETERMINE.—The Commis-
8 sioner shall—

9 (A) establish the methodology to designate
10 shortage occupations under subsection (d)(4);
11 and

12 (B) publish such methodology in the Fed-
13 eral Register not later than 18 months after the
14 date of the enactment of this Act.

15 (2) PETITION BY EMPLOYER.—The method-
16 ology established under paragraph (1) shall permit
17 an employer to petition the Commissioner for a de-
18 termination that a particular occupation in a par-
19 ticular metropolitan statistical area is a shortage oc-
20 cupation.

21 (3) REQUIREMENT FOR NOTICE AND COM-
22 MENT.—The methodology established under para-
23 graph (1) shall be effective only after publication in
24 the Federal Register and an opportunity for public
25 comment.

1 (g) EMPLOYEE EXPERTISE.—The employees of the
2 Bureau shall have the expertise necessary to identify labor
3 shortages in the United States and make recommenda-
4 tions to the Commissioner on the impact of immigrant and
5 nonimmigrant aliens on labor markets in the United
6 States, including expertise in economics, labor markets,
7 demographics and methods of recruitment of United
8 States workers.

9 (h) INTERAGENCY COOPERATION.—At the request of
10 the Commissioner, the Secretary of Commerce, the Direc-
11 tor of the Bureau of the Census, the Secretary of Labor,
12 and the Commissioner of the Bureau of Labor Statistics
13 shall—

- 14 (1) provide data to the Commissioner;
- 15 (2) conduct appropriate surveys; and
- 16 (3) assist the Commissioner in preparing the
17 recommendations referred to subsection (d)(5).

18 (i) BUDGET.—

19 (1) REPORT.—Not later than 1 year after the
20 date of the enactment of this Act, the Director of
21 U.S. Citizenship and Immigration Services shall sub-
22 mit to Congress a report of the estimated budget
23 that the Bureau will need to carry out the duties de-
24 scribed in subsection (d).

1 220(a)) in accordance with the require-
2 ments under section 220;

3 “(ii) to accompany or follow to join
4 such an alien described in clause (i) as the
5 spouse or child of such alien;”.

6 **SEC. 4703. ADMISSION OF W NONIMMIGRANT WORKERS.**

7 (a) ADMISSION OF W NONIMMIGRANT WORKERS.—

8 (1) IN GENERAL.—Title II (8 U.S.C. 1151 et
9 seq.) is amended by adding at the end the following:

10 **“SEC. 220. ADMISSION OF W NONIMMIGRANT WORKERS.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) BUREAU.—The term ‘Bureau’ means the
13 Bureau of Immigration and Labor Market Research
14 established by section 4701 of the Border Security,
15 Economic Opportunity, and Immigration Moderniza-
16 tion Act.

17 “(2) CERTIFIED ALIEN.—The term ‘certified
18 alien’ means an alien that the Secretary of State has
19 certified is eligible to be a W nonimmigrant if the
20 alien is hired by a registered employer for a reg-
21 istered position.

22 “(3) COMMISSIONER.—The term ‘Commis-
23 sioner’ means the Commissioner of the Bureau.

24 “(4) CONSTRUCTION OCCUPATION.—The term
25 ‘construction occupation’ means an occupation de-

1 fined by the Bureau of Labor Statistics as being
2 within the construction industry for the purposes of
3 publishing the Bureau's workforce statistics.

4 “(5) DEPARTMENT.—Except as otherwise pro-
5 vided, the term ‘Department’ means the Department
6 of Homeland Security.

7 “(6) ELIGIBLE OCCUPATION.—The term ‘eligi-
8 ble occupation’ means an eligible occupation de-
9 scribed in subsection (e)(3).

10 “(7) EMPLOYER.—

11 “(A) IN GENERAL.—The term ‘employer’
12 means any person or entity hiring an individual
13 for employment in the United States.

14 “(B) TREATMENT OF SINGLE EM-
15 PLOYER.—For purposes of determining the
16 number of employees or United States workers
17 employed by an employer, a single entity shall
18 be treated as 1 employer.

19 “(8) EXCLUDED GEOGRAPHIC LOCATION.—The
20 term ‘excluded geographic location’ means an ex-
21 cluded geographic location described in subsection
22 (f).

23 “(9) METROPOLITAN STATISTICAL AREA.—The
24 term ‘metropolitan statistical area’ means a geo-
25 graphic area designated as a metropolitan statistical

1 area by the Director of the Office of Management
2 and Budget.

3 “(10) REGISTERED EMPLOYER.—The term
4 ‘registered employer’ means an employer that the
5 Secretary has designated as a registered employer
6 under subsection (d).

7 “(11) SECRETARY.—Except as otherwise spe-
8 cifically provided, the term ‘Secretary’ means the
9 Secretary of Homeland Security.

10 “(12) SINGLE ENTITY.—The term ‘single enti-
11 ty’ means any group treated as a single employer
12 under subsection (b), (c), (m), or (o) of section 414
13 of the Internal Revenue Code of 1986.

14 “(13) SHORTAGE OCCUPATION.—The term
15 ‘shortage occupation’ means a shortage occupation
16 designated by the Commissioner pursuant to section
17 4701(d)(4) of the Border Security, Economic Oppor-
18 tunity, and Immigration Modernization Act.

19 “(14) SMALL BUSINESS.—The term ‘small busi-
20 ness’ means an employer that employs 25 or fewer
21 full-time equivalent employees.

22 “(15) UNITED STATES WORKER.—The term
23 ‘United States worker’ means an individual who is—

24 “(A) employed or seeking employment in
25 the United States; and

1 “(B)(i) a national of the United States;

2 “(ii) an alien lawfully admitted for perma-
3 nent residence;

4 “(iii) an alien in Registered Provisional
5 Immigrant Status; or

6 “(iv) any other alien authorized to work in
7 the United States with no limitation as to the
8 alien’s employer.

9 “(16) *W* NONIMMIGRANT.—The term ‘*W* non-
10 immigrant’ means an alien admitted as a non-
11 immigrant pursuant to section 101(a)(15)(W)(i).

12 “(17) *W* VISA PROGRAM.—The term ‘*W* visa
13 program’ means the program for the admission of
14 nonimmigrant aliens described in section
15 101(a)(15)(W)(i).

16 “(18) *ZONE 1* OCCUPATION.—The term ‘zone 1
17 occupation’ means an occupation that requires little
18 or no preparation and is classified as a zone 1 occu-
19 pation on—

20 “(A) the Occupational Information Net-
21 work Database (O*NET) on the date of the en-
22 actment of the Border Security, Economic Op-
23 portunity, and Immigration Modernization Act;
24 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 the
4 Border Security, Economic Opportunity, and
5 Immigration Modernization Act.

6 “(19) ZONE 2 OCCUPATION.—The term ‘zone 2
7 occupation’ means an occupation that requires some
8 preparation and is classified as a zone 2 occupation
9 on—

10 “(A) the Occupational Information Net-
11 work Database (O*NET) on the date of the en-
12 actment of the Border Security, Economic Op-
13 portunity, and Immigration Modernization Act;
14 or

15 “(B) such Database or a similar successor
16 database, as designated by the Secretary of
17 Labor, after the date of the enactment of the
18 Border Security, Economic Opportunity, and
19 Immigration Modernization Act.

20 “(20) ZONE 3 OCCUPATION.—The term ‘zone 3
21 occupation’ means an occupation that requires me-
22 dium preparation and is classified as a zone 3 occu-
23 pation on—

24 “(A) the Occupational Information Net-
25 work Database (O*NET) on the date of the en-

1 actment of the Border Security, Economic Op-
2 portunity, and Immigration Modernization Act;
3 or

4 “(B) such Database or a similar successor
5 database, as designated by the Secretary of
6 Labor, after the date of the enactment of the
7 Border Security, Economic Opportunity, and
8 Immigration Modernization Act.

9 “(b) ADMISSION INTO THE UNITED STATES.—

10 “(1) W NONIMMIGRANTS.—Subject to this sec-
11 tion, a certified alien is eligible to be admitted to the
12 United States as a W nonimmigrant if the alien is
13 hired by a registered employer for employment in a
14 registered position in a location that is not an ex-
15 cluded geographic location.

16 “(2) SPOUSE AND MINOR CHILDREN.—The
17 alien spouse and minor children of a W non-
18 immigrant—

19 “(A) may be admitted to the United States
20 pursuant to clause (ii) of section 101(a)(15)(W)
21 during the period of the principal W non-
22 immigrant’s admission;

23 “(B) is authorized to engage in employ-
24 ment in the United States during such period
25 of admission; and

1 “(C) shall be provided with employment
2 authorization or other appropriate work permit.

3 “(e) W NONIMMIGRANTS.—

4 “(1) CERTIFIED ALIEN.—

5 “(A) APPLICATION.—An alien seeking to
6 be a W nonimmigrant shall apply to the Sec-
7 retary of State at a United States embassy or
8 consulate in a foreign country to be a certified
9 alien.

10 “(B) CRITERIA.—An alien is eligible to be
11 a certified alien if the alien—

12 “(i) is not inadmissible under this
13 Act;

14 “(ii) passes a criminal background
15 check;

16 “(iii) agrees to accept only registered
17 positions in the United States; and

18 “(iv) meets other criteria as estab-
19 lished by the Secretary.

20 “(2) W NONIMMIGRANT STATUS.—Only an alien
21 that is a certified alien may be admitted to the
22 United States as a W nonimmigrant.

23 “(3) INITIAL EMPLOYMENT.—A W non-
24 immigrant shall report to such nonimmigrant’s ini-
25 tial employment in a registered position not later

1 than 14 days after such nonimmigrant is admitted
2 to the United States.

3 “(4) TERM OF ADMISSION.—

4 “(A) INITIAL TERM.—A certified alien may
5 be granted W nonimmigrant status for an ini-
6 tial period of 3 years.

7 “(B) RENEWAL.—A W nonimmigrant may
8 renew his or her status as a W nonimmigrant
9 for additional 3-year periods. Such a renewal
10 may be made while the W nonimmigrant is in
11 the United States and shall not require the
12 alien to depart the United States.

13 “(5) PERIODS OF UNEMPLOYMENT.—A W non-
14 immigrant—

15 “(A) may be unemployed for a period of
16 not more than 60 consecutive days; and

17 “(B) shall depart the United States if such
18 W nonimmigrant is unable to obtain such em-
19 ployment during such period.

20 “(6) TRAVEL.—A W nonimmigrant may travel
21 outside the United States and be readmitted to the
22 United States. Such travel may not extend the pe-
23 riod of authorized admission of such W non-
24 immigrant.

25 “(d) REGISTERED EMPLOYER.—

1 “(1) APPLICATION.—An employer seeking to be
2 a registered employer shall submit an application to
3 the Secretary. Each such application shall include
4 the following:

5 “(A) Documentation to establish that the
6 employer is a bona-fide employer.

7 “(B) The employer’s Federal tax identi-
8 fication number or employer identification num-
9 ber registered with the Internal Revenue Serv-
10 ice.

11 “(C) The number of W nonimmigrants the
12 employer estimates it will seek to employ annu-
13 ally.

14 “(2) REFERRAL FOR FRAUD INVESTIGATION.—
15 The Secretary may refer an application submitted
16 under paragraph (1) or subsection (c)(1)(A) to the
17 Fraud Detection and National Security Directorate
18 of U.S. Citizenship and Immigration Services if
19 there is evidence of fraud for potential investigation.

20 “(3) INELIGIBLE EMPLOYERS.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other applicable penalties under law, the Sec-
23 retary may deny an employer’s application to be
24 a registered employer if the Secretary deter-
25 mines, after notice and an opportunity for a

1 hearing, that the employer submitting such ap-
2 plication—

3 “(i) has, with respect to the applica-
4 tion required under paragraph (1), includ-
5 ing any attestations required by law—

6 “(I) knowingly misrepresented a
7 material fact;

8 “(II) knowingly made a fraudu-
9 lent statement; or

10 “(III) knowingly failed to comply
11 with the terms of such attestations; or

12 “(ii) failed to cooperate in the audit
13 process in accordance with regulations pro-
14 mulgated by the Secretary;

15 “(iii) has been convicted of an offense
16 set out in chapter 77 of title 18, United
17 States Code, or any conspiracy to commit
18 such offenses, or any human trafficking of-
19 fense under State or territorial law;

20 “(iv) has, within 2 years prior to the
21 date of application—

22 “(I) received a final adjudication
23 of having committed any hazardous
24 occupation orders violation resulting
25 in injury or death under the child

1 labor provisions contained in section
2 12 of the Fair Labor Standards Act
3 of 1938 (29 U.S.C. 211) and any per-
4 tinent regulation;

5 “(II) received a final adjudication
6 assessing a civil money penalty for
7 any repeated or willful violation of the
8 minimum wage provisions of section 6
9 of the Fair Labor Standards Act of
10 1938 (29 U.S.C. 206); or

11 “(III) received a final adjudica-
12 tion assessing a civil money penalty
13 for any repeated or willful violation of
14 the overtime provisions of section 7 of
15 the Fair Labor Standards Act of
16 1938 or any regulations thereunder,
17 other than a repeated violation that is
18 self-reported (29 U.S.C. 207); or

19 “(v) has, within 2 years prior to the
20 date of application, received a final adju-
21 dication for a willful violation or repeated
22 serious violations involving injury or
23 death—

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1 “(I) of section 5 of the Occupa-
2 tional Safety and Health Act of 1970
3 (29 U.S.C. 654);

4 “(II) of any standard, rule, or
5 order promulgated pursuant to section
6 6 of the Occupational Safety and
7 Health Act of 1970 (29 U.S.C. 655);
8 or

9 “(III) of a plan approved under
10 section 18 of the Occupational Safety
11 and Health Act of 1970 (29 U.S.C.
12 667).

13 “(B) LENGTH OF INELIGIBILITY.—

14 “(i) TEMPORARY INELIGIBILITY.—An
15 employer described in subparagraph (A)
16 may be ineligible to be a registered em-
17 ployer for a period that is not less than the
18 time period determined by the Secretary
19 and not more than 3 years.

20 “(ii) PERMANENT INELIGIBILITY.—
21 An employer who has been convicted of
22 any offense set out in chapter 77 of title
23 18, United States Code, or any conspiracy
24 to commit such offenses, or any human
25 trafficking offense under State or terri-

1 torial law shall be permanently ineligible to
2 be a registered employer.

3 “(4) TERM OF REGISTRATION.—The Secretary
4 shall approve applications meeting the criteria of
5 this subsection for a term of 3 years.

6 “(5) RENEWAL.—An employer may submit an
7 application to renew the employer’s status as a reg-
8 istered employer for additional 3-year periods.

9 “(6) FEE.—At the time an employer’s applica-
10 tion to be a registered employer or to renew such
11 status is approved, such employer shall pay a fee in
12 an amount determined by the Secretary to be suffi-
13 cient to cover the costs of the registry of such em-
14 ployers.

15 “(7) CONTINUED ELIGIBILITY.—Each reg-
16 istered employer shall submit to the Secretary an
17 annual report that demonstrates that the registered
18 employer has provided the wages and working condi-
19 tions the registered employer agreed to provide to its
20 employees.

21 “(e) REGISTERED POSITIONS.—

22 “(1) IN GENERAL.—

23 “(A) APPLICATION.—Each registered em-
24 ployer shall submit to the Secretary an applica-
25 tion to designate a position for which the em-

1 position in the metropolitan statistical
2 area of the employment, based on the
3 best information available as of the
4 time of filing the application.

5 “(v) The working conditions for W
6 nonimmigrants will not adversely affect the
7 working conditions of other workers em-
8 ployed in similar positions.

9 “(vi) The employer has carried out
10 the recruiting activities required by para-
11 graph (2)(B).

12 “(vii) There is no qualified United
13 States worker who has applied for the po-
14 sition and who is ready, willing, and able
15 to fill such position pursuant to the re-
16 quirements in subparagraphs (B) and (C)
17 of paragraph (2).

18 “(viii) There is not a strike, lockout,
19 or work stoppage in the course of a labor
20 dispute in the occupation at the place of
21 employment at which the W nonimmigrant
22 will be employed. If such strike, lockout, or
23 work stoppage occurs following submission
24 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 subelause (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—

1 “(i) the date the employer’s status as
2 a registered employer is terminated;

3 “(ii) three years after the date of such
4 approval; or

5 “(iii) upon proper termination of the
6 registered position by the employer.

7 “(2) REQUIREMENTS.—

8 “(A) ELIGIBLE OCCUPATION.—Each reg-
9 istered position shall be for a position in an eli-
10 gible occupation as described in paragraph (3).

11 “(B) RECRUITMENT OF UNITED STATES
12 WORKERS.—

13 “(i) REQUIREMENTS.—A position may
14 not be a registered position unless the reg-
15 istered employer—

16 “(I) advertises the position for a
17 period of 30 days, including the wage
18 range, location, and proposed start
19 date—

20 “(aa) on the Internet
21 website maintained by the Sec-
22 retary of Labor for the purpose
23 of such advertising; and

1 “(bb) with the workforce
2 agency of the State where the po-
3 sition will be located; and

4 “(H) carries out not less than 3
5 of the recruiting activities described in
6 subparagraph (C).

7 “(ii) DURATION OF ADVERTISING.—
8 The 30 day periods required by item (aa)
9 of (bb) of clause (i)(I) may occur at the
10 same time.

11 “(C) RECRUITING ACTIVITIES.—The re-
12 cruiting activities described in this subpara-
13 graph, with respect to a position for which the
14 employer is seeking a W nonimmigrant, shall
15 consist of any combination of the following as
16 defined by the Secretary of Homeland Security:

17 “(i) Advertising such position at job
18 fairs.

19 “(ii) Advertising such position on the
20 employer’s external website.

21 “(iii) Advertising such position on job
22 search Internet websites.

23 “(iv) Advertising such position using
24 presentations or postings at vocational, ca-
25 reer technical schools, community colleges,

1 high schools, or other educational or train-
2 ing sites.

3 “(v) Posting such position with trade
4 associations.

5 “(vi) Utilizing a search firm to seek
6 applicants for such position.

7 “(vii) Advertising such position
8 through recruitment programs with place-
9 ment offices at vocational schools, career
10 technical schools, community colleges, high
11 schools, or other educational or training
12 sites.

13 “(viii) Advertising such position
14 through advertising or postings with local
15 libraries, journals, or newspapers.

16 “(ix) Seeking a candidate for such po-
17 sition through an employee referral pro-
18 gram with incentives.

19 “(x) Advertising such position through
20 advertising on radio or television.

21 “(xi) Advertising such position
22 through advertising, postings, or presen-
23 tations with newspapers, Internet websites,
24 job fairs, or community events targeted to

1 constituencies designed to increase em-
2 ployee diversity.

3 “(xii) Advertising such position
4 through career day presentations at local
5 high schools or community organizations.

6 “(xiii) Providing in-house training.

7 “(xiv) Providing third-party training.

8 “(xv) Advertising such position
9 through recruitment, educational, or other
10 cooperative programs offered by the em-
11 ployer and a local economic development
12 authority.

13 “(xvi) Advertising such position twice
14 in the Sunday ads in the primary daily cir-
15 culation newspaper in the area.

16 “(xvii) Any other recruitment activi-
17 ties determined to be appropriate to be
18 added by the Commissioner.

19 “(3) ELIGIBLE OCCUPATION.—

20 “(A) IN GENERAL.—An occupation is an
21 eligible occupation if the occupation—

22 “(i) is a zone 1 occupation, a zone 2
23 occupation, or zone 3 occupation; and

24 “(ii) is not an excluded occupation
25 under subparagraph (B).

1 “(B) EXCLUDED OCCUPATIONS.—

2 “~~(i)~~ OCCUPATIONS REQUIRING COL-
3 LEGE DEGREES.—An occupation that is
4 listed in the Occupational Outlook Hand-
5 book published by the Bureau of Labor
6 Statistics (or similar successor publication)
7 that is classified as requiring an individual
8 with a bachelor’s degree or higher level of
9 education may not be an eligible occupa-
10 tion.

11 “~~(ii)~~ COMPUTER OCCUPATIONS.—An
12 occupation in the field of computer oper-
13 ation, computer programming, or computer
14 repair may not be an eligible occupation.

15 “(C) PUBLICATION.—The Secretary of
16 Labor shall publish the eligible occupations,
17 designated as zone 1 occupations, zone 2 occu-
18 pations, or zone 3 occupations, on an on-going
19 basis on a publicly available website.

20 “(4) FILLING OF VACANCIES.—If a W non-
21 immigrant terminates employment in a registered
22 position or is terminated from such employment by
23 the registered employer, such employer may fill that
24 vacancy by hiring—

25 “(A) a certified alien;

1 “(B) a W nonimmigrant;

2 “(C) a United States worker; or

3 “(D) an alien who is the beneficiary of a
4 petition for a visa described in section
5 203(b)(3).

6 “(5) PERIOD OF APPROVAL.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), a registered position shall be
9 approved by the Secretary for a period of 3
10 years.

11 “(B) INTENDING IMMIGRANTS.—

12 “(i) EXTENSION OF PERIOD.—A reg-
13 istered position shall continue to be a reg-
14 istered position at the end of the 3-year
15 period referred to in subparagraph (A) if
16 the W nonimmigrant hired for such posi-
17 tion is the beneficiary of a petition for im-
18 migrant status filed by the registered em-
19 ployer pursuant to this Act.

20 “(ii) TERMINATION OF PERIOD.—The
21 term of a registration position extended
22 under clause (i) shall terminate on the
23 date that is the earlier of—

24 “(I) the date the petition referred
25 to in clause (i) for a W nonimmigrant

1 is approved or denied by the Sec-
2 retary; or

3 “(H) the date of the termination
4 of such W nonimmigrant’s employ-
5 ment with the registered employer.

6 “(6) FEES.—

7 “(A) REGISTRATION FEE.—

8 “(i) IN GENERAL.—At the time a reg-
9 istered position is approved for a registered
10 employer, such employer shall pay a reg-
11 istration fee in an amount determined by
12 the Secretary.

13 “(ii) USE OF FEE.—A fee collected
14 under clause (i) shall be used to fund any
15 aspect of the operation of the W visa pro-
16 gram.

17 “(B) ADDITIONAL FEE.—

18 “(i) IN GENERAL.—In addition to the
19 fee required by subparagraph (A), a reg-
20 istered employer shall pay an additional fee
21 for each approved registered position as
22 follows:

23 “(I) A fee of \$1,750 for the reg-
24 istered position if the registered em-
25 ployer is a small business and more

1 than 50 percent and less than 75 per-
2 cent of the employees of the registered
3 employees are not United States
4 workers.

5 “(II) A fee of \$3,500 for the reg-
6 istered position if the registered em-
7 ployer is a small business and more
8 than 75 percent of the employees of
9 the registered employees are not
10 United States workers.

11 “(III) A fee of \$3,500 for the
12 registered position if the registered
13 employer is not a small business and
14 more than 15 percent and less than
15 30 percent of the employees of the
16 registered employees are not United
17 States workers.

18 “(ii) USE OF FEE.—A fee collected
19 under clause (i) shall be used to fund the
20 operations of the Bureau.

21 “(C) PROHIBITION ON OTHER FEES.—A
22 registered employer may not be required to pay
23 an additional fee under subparagraph (B) if the
24 registered employer is a small business.

1 “(ii) For the second such year,
2 35,000.

3 “(iii) For the third such year, 55,000.

4 “(iv) For the fourth such year,
5 75,000.

6 “(v) For each year after the fourth
7 such year, the level calculated for that year
8 under paragraph (2).

9 “(B) DATES.—The first year referred to in
10 subparagraph (A)(i) shall begin on April 1,
11 2015 and end on March 31, 2016, unless the
12 Secretary determines that such first year shall
13 begin on October 1, 2015 and end on Sep-
14 tember 30, 2016.

15 “(2) YEARS AFTER YEAR 4.—

16 “(A) CURRENT YEAR AND PRECEDING
17 YEAR.—In this paragraph—

18 “(i) the term ‘current year’ shall refer
19 to the 12-month period for which the cal-
20 culation of the numerical limits under this
21 paragraph is being performed; and

22 “(ii) the term ‘preceding year’ shall
23 refer to the 12-month period immediately
24 preceding the current year.

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1 for the preceding year minus the
2 number of registered positions ap-
3 proved under subsection (e) for the
4 preceding year; and

5 “(II) the denominator of which is
6 the number of registered positions ap-
7 proved under subsection (e) for the
8 preceding year;

9 “(ii) one-fifth of a fraction—

10 “(I) the numerator of which is
11 the number of registered positions the
12 Commissioner recommends be avail-
13 able under this subparagraph for the
14 current year minus the number of
15 registered positions available under
16 this subsection for the preceding year;
17 and

18 “(II) the denominator of which is
19 the number of registered positions
20 available under this subsection for the
21 preceding year;

22 “(iii) three-tenths of a fraction—

23 “(I) the numerator of which is
24 the number of unemployed United
25 States workers for the preceding year

1 minus the number of unemployed
2 United States workers for the current
3 year; and

4 “(H) the denominator of which is
5 the number of unemployed United
6 States workers for the preceding year;
7 and

8 “(iv) three-tenths of a fraction—

9 “(I) the numerator of which is
10 the number of job openings as set out
11 in the Job Openings and Labor Turn-
12 over Survey of the Bureau of Labor
13 Statistics for the current year minus
14 such number of job openings for the
15 preceding year; and

16 “(H) the denominator of which is
17 the number of such job openings for
18 the preceding year;

19 “(D) MINIMUM AND MAXIMUM LEVELS.—
20 The number of registered positions calculated
21 under subparagraph (B) for a 12-month period
22 may not be less than 20,000 or more than
23 200,000.

24 “(3) ADDITIONAL REGISTERED POSITIONS FOR
25 SHORTAGE OCCUPATIONS.—In addition to the num-

1 ber of registered positions made available for a year
2 under paragraph (1), the Secretary shall make avail-
3 able for a year an additional number of registered
4 positions for shortage occupations in a particular
5 metropolitan statistical area.

6 ~~“(4) SPECIAL ALLOCATIONS OF REGISTERED~~
7 ~~POSITIONS.—~~

8 ~~“(A) AUTHORITY TO MAKE AVAILABLE.—~~

9 In addition to the number of registered posi-
10 tions made available for a year under para-
11 graph (1) or (3), the Secretary shall make addi-
12 tional registered positions available for the year
13 for a specific registered employer if—

14 ~~“(i)(I) the maximum number of reg-~~
15 ~~istered positions available under paragraph~~
16 ~~(1) have been approved for the year and~~
17 ~~none remain available for allocation; or~~

18 ~~“(II) such registered employer is lo-~~
19 ~~cated in a metropolitan statistical area~~
20 ~~that has an unemployment rate that is~~
21 ~~more than 8 ½ percent as reported in the~~
22 ~~most recent month preceding the date that~~
23 ~~the application is submitted to the Sec-~~
24 ~~retary; and~~

1 “(ii) such registered employer has car-
2 ried out not less than 7 of the recruiting
3 activities described in subsection (e)(2)(C)
4 and posts the position, including the wage
5 range, location, and initial date of employ-
6 ment, for not less than 30 days—

7 “(I) on the Internet website
8 maintained by the Secretary of Labor
9 for the purpose of such advertising;
10 and

11 “(II) with the workforce agency
12 of the State where the position will be
13 located.

14 “(B) DURATION OF POSTING.—The 30 day
15 periods required by subclauses (I) or (II) of
16 subparagraph (A)(iii) may occur at the same
17 time.

18 “(C) WAGES.—A W nonimmigrant hired
19 to perform an eligible occupation pursuant to a
20 registered position made available under this
21 paragraph may not be paid less than the great-
22 er of—

23 “(i) the level 4 wage set out in the
24 Foreign Labor Certification Data Center
25 Online Wage Library (or similar successor

1 website) maintained by the Secretary of
2 Labor for such occupation in that metro-
3 politan statistical area; or

4 “(ii) the mean of the highest two-
5 thirds of wages surveyed for such occupa-
6 tion in that metropolitan statistical area.

7 “(D) REDUCTION OF FUTURE REGISTERED
8 POSITIONS.—Each registered position made
9 available for a year under this paragraph shall
10 reduce by $\frac{1}{2}$ the number of registered positions
11 made available under paragraph (g)(1) for the
12 following year or the earliest possible year for
13 which a registered position is available. The
14 limitation contained in paragraph (h)(4) shall
15 not be reduced by any registered position made
16 available under this paragraph.

17 “(5) OTHER CONSIDERATION.—In no event
18 shall the number of visas issued under section
19 101(a)(15)(W)(i) exceed the number of registered
20 positions in existence.

21 “(h) ALLOCATION OF REGISTERED POSITIONS.—

22 “(1) IN GENERAL.—

23 “(A) FIRST 6-MONTH PERIOD.—The num-
24 ber of registered positions available for the 6-
25 month period beginning on the first day of a

1 year is 50 percent of the maximum number of
2 registered positions available for such year
3 under subsection (g)(1). Such registered posi-
4 tions shall be allocated as described in this sub-
5 section.

6 “(B) SECOND 6-MONTH PERIOD.—The
7 number of registered positions available for the
8 6-month period ending on the last day of a year
9 is the maximum number of registered positions
10 available for such year under subsection (g)(1)
11 minus the number of registered positions ap-
12 proved during the 6-month period referred to in
13 subsection (A). Such registered positions shall
14 be allocated as described in this subsection.

15 “(2) SHORTAGE OCCUPATIONS.—

16 “(A) IN GENERAL.—For the first month of
17 each 6-month period referred to in subpara-
18 graph (A) or (B) of paragraph (1) a registered
19 position may not be created in an occupation
20 that is not a shortage occupation.

21 “(B) INITIAL DESIGNATIONS.—Subpara-
22 graph (A) shall not apply in any period for
23 which the Commissioner has not designated any
24 shortage occupations.

1 ~~“(3) SMALL BUSINESSES.—~~During the second,
2 ~~third, and fourth months of each 6-month period re-~~
3 ~~ferred to in subparagraph (A) or (B) of paragraph~~
4 ~~(1), one-third of the number of registered positions~~
5 ~~allocated for such period shall be approved only for~~
6 ~~a registered employer that is a small business. Any~~
7 ~~such registered positions not approved for such~~
8 ~~small businesses during such months shall be avail-~~
9 ~~able for any registered employer during the last 2~~
10 ~~months of each such 6-month period.~~

11 ~~“(4) MEAT, POULTRY, AND FISH CUTTERS AND~~
12 ~~TRIMMERS.—~~In addition to the number of registered
13 ~~positions made available for a year under paragraph~~
14 ~~(1) or (3) of such section (g), the Secretary shall~~
15 ~~make additional registered positions available for the~~
16 ~~year for occupations designated by the Secretary of~~
17 ~~Labor as Meat, Poultry, and Fish Cutters and Trim-~~
18 ~~mers. The numerical limitation for such additional~~
19 ~~registered positions shall be no more than 10 per-~~
20 ~~cent of the annual numerical limitation provided for~~
21 ~~in such paragraph (1).~~

22 ~~“(5) LIMITATION FOR CONSTRUCTION OCCUPA-~~
23 ~~TIONS.—~~

24 ~~“(A) IN GENERAL.—~~Subject to subpara-
25 ~~graph (B), not more than 33 percent of the reg-~~

1 istered positions made available under sub-
2 section (g)(1) for a year may be granted to per-
3 form work in a construction occupation.

4 “(B) MAXIMUM LEVEL.—Notwithstanding
5 subparagraph (A), the number of registered po-
6 sitions granted to perform work in a construc-
7 tion occupation under subsection (g)(1) may
8 not exceed 15,000 for a year and 7,500 for any
9 6-month period.

10 “(C) PROHIBITION FOR OCCUPATIONS
11 WITH HIGH UNEMPLOYMENT.—

12 “(i) IN GENERAL.—A registered em-
13 ployer may not hire a certified alien for a
14 registered position to perform work in a
15 construction occupation if the unemploy-
16 ment rate for construction occupations in
17 the corresponding occupational job zone in
18 that metropolitan statistical area was more
19 than 8½ percent.

20 “(ii) DETERMINATION OF UNEMPLOY-
21 MENT RATE.—The unemployment rate
22 used in clause (i) shall be determined—

23 “(I) using the most recent survey
24 taken by the Bureau; or

1 “(H) if a survey referred to in
2 subclause (I) is not available, a recent
3 and legitimate private survey.

4 “(i) PORTABILITY.—A W nonimmigrant who is ad-
5 mitted to the United States for employment by a reg-
6 istered employer may—

7 “(1) terminate such employment for any rea-
8 son; and

9 “(2) seek and accept employment with another
10 registered employer in any other registered position
11 within the terms and conditions of the W non-
12 immigrants visa.

13 “(j) PROMOTION.—A registered employer who has
14 applied for a registered position in a shortage occupation
15 may promote the W nonimmigrant hired for that reg-
16 istered position to a registered position in an occupation
17 that is not a shortage occupation if the W nonimmigrant
18 has been employed with that employer for a period of not
19 less than 12 months. Such a promotion shall not increase
20 the total number of registered positions available to that
21 employer.

22 “(k) PROHIBITION ON OUTPLACEMENT.—A reg-
23 istered employer may not place, outsource, lease, or other-
24 wise contract for the services or placement of a W non-
25 immigrant employee with another employer if more than

1 15 percent of the employees of the registered employer are
2 W nonimmigrants.

3 “(1) W NONIMMIGRANT PROTECTIONS.—

4 “(1) APPLICABILITY OF LAWS.—A W non-
5 immigrant shall not be denied any right or any rem-
6 edy under Federal, State, or local labor or employ-
7 ment law that would be applicable to a United
8 States worker employed in a similar position with
9 the employer because of the alien’s status as a non-
10 immigrant worker.

11 “(2) WAIVER OF RIGHTS PROHIBITED.—

12 “(A) IN GENERAL.—A W nonimmigrant
13 may not be required to waive any substantive
14 rights or protections under this Act.

15 “(B) CONSTRUCTION.—Nothing under this
16 paragraph may be construed to affect the inter-
17 pretation of any other law.

18 “(3) PROHIBITION ON TREATMENT AS INDE-
19 PENDENT CONTRACTORS.—

20 “(A) IN GENERAL.—Notwithstanding any
21 other provision of law—

22 “(i) a W nonimmigrant is prohibited
23 from being treated as an independent con-
24 tractor under any Federal or State law;
25 and

1 “(ii) no person, including an employer
2 or labor contractor and any persons who
3 are affiliated with or contract with an em-
4 ployer or labor contractor, may treat a W
5 nonimmigrant as an independent con-
6 tractor.

7 “(B) CONSTRUCTION.—Subparagraph (A)
8 may not be construed to prevent registered em-
9 ployers who operate as independent contractors
10 from employing W nonimmigrants.

11 “(4) PAYMENT OF FEES.—

12 “(A) IN GENERAL.—A fee related to the
13 hiring of a W nonimmigrant required to be paid
14 by an employer under this Act shall be paid by
15 the employer and may not be deducted from the
16 wages or other compensation paid to a W non-
17 immigrant.

18 “(B) EXCLUDED COSTS.—The cost of
19 round trip transportation from a certified
20 alien’s home to the location of a registered posi-
21 tion and the cost of obtaining a foreign pass-
22 port are not fees required to be paid by the em-
23 ployer.

24 “(5) TAX RESPONSIBILITIES.—An employer
25 shall comply with all applicable Federal, State, and

1 local tax laws with respect to each W nonimmigrant
2 employed by the employer.

3 ~~“(6) WHISTLEBLOWER PROTECTION.—~~

4 ~~“(A) PROHIBITED ACTIVITIES.—It shall be~~
5 ~~unlawful for an employer of a W nonimmigrant~~
6 ~~to intimidate, threaten, restrain, coerce, retali-~~
7 ~~ate, discharge, or in any other manner, dis-~~
8 ~~criminate against an employee or former em-~~
9 ~~ployee because the employee or former em-~~
10 ~~ployee—~~

11 ~~“(i) discloses information to the em-~~
12 ~~ployer or any other person that the em-~~
13 ~~ployee or former employee reasonably be-~~
14 ~~lieves demonstrates a violation of this sec-~~
15 ~~tion; or~~

16 ~~“(ii) cooperates or seeks to cooperate~~
17 ~~in an investigation or other proceeding~~
18 ~~concerning compliance with the require-~~
19 ~~ments of this section.~~

20 ~~“(m) COMPLAINT PROCESS.—The Secretary shall es-~~
21 ~~tablish a process for the receipt, investigation, and disposi-~~
22 ~~tion of complaints with respect to—~~

23 ~~“(1) the failure of a registered employer to~~
24 ~~meet a condition of this section; or~~

1 ~~“(2) the lay off or non-hiring of a United~~
2 ~~States worker as required by this section.~~

3 ~~“(n) ENFORCEMENT.—~~

4 ~~“(1) IN GENERAL.—The Secretary shall pro-~~
5 ~~mulgate regulations for the receipt, investigation,~~
6 ~~and disposition of complaints by an aggrieved W~~
7 ~~nonimmigrant respecting a violation of this section.~~

8 ~~“(2) FILING DEADLINE.—No investigation or~~
9 ~~hearing shall be conducted on a complaint con-~~
10 ~~cerning a violation under this section unless the~~
11 ~~complaint was filed not later than 6 months after~~
12 ~~the date of such violation.~~

13 ~~“(3) REASONABLE BASIS.—The Secretary shall~~
14 ~~conduct an investigation under this subsection if~~
15 ~~there is reasonable basis to believe that a violation~~
16 ~~of this section has occurred. The process established~~
17 ~~under this subsection shall provide that, not later~~
18 ~~than 30 days after a complaint is filed, the Sec-~~
19 ~~retary shall determine if there is reasonable cause to~~
20 ~~find such a violation.~~

21 ~~“(4) NOTICE AND HEARING.—~~

22 ~~“(A) IN GENERAL.—Not later than 60~~
23 ~~days after the Secretary makes a determination~~
24 ~~of reasonable basis under paragraph (3), the~~
25 ~~Secretary shall issue a notice to the interested~~

1 parties and offer an opportunity for a hearing
2 on the complaint, in accordance with section
3 556 of title 5, United States Code.

4 “(B) HEARING DEADLINE.—Not later than
5 60 days after the date of a hearing under this
6 paragraph, the Secretary shall make a finding
7 on the matter.

8 “(5) ATTORNEY’S FEES.—

9 “(A) AWARD.—A complainant who prevails
10 in an action under this subsection with respect
11 to a claim related to wages or compensation for
12 employment, or a claim for a violation of sub-
13 section (l) or (m), shall be entitled to an award
14 of reasonable attorney’s fees and costs.

15 “(B) FRIVOLOUS COMPLAINTS.—A com-
16 plainant who files a frivolous complaint for an
17 improper purpose under this subsection shall be
18 liable for the reasonable attorney’s fees and
19 costs of the person named in the complaint.

20 “(6) POWER OF THE SECRETARY.—The Sec-
21 retary may bring an action in any court of com-
22 petent jurisdiction—

23 “(A) to seek remedial action, including in-
24 junctive relief;

1 affected worker for each subsequent viola-
2 tion;

3 “(ii) if the violation was willful, a fine
4 in an amount not more than \$5,000 per
5 violation per affected worker;

6 “(iii) if the violation was willful and if
7 in the course of such violation a United
8 States worker was harmed, a fine in an
9 amount not more than \$25,000 per viola-
10 tion per affected worker; or

11 “(B) for knowingly failing to materially
12 comply with the terms of representations made
13 in petitions, applications, certifications, or at-
14 testations under this section—

15 “(i) a fine in an amount not more
16 than \$4,000 per aggrieved worker; and

17 “(ii) upon the occasion of a third of-
18 fense of failure to comply with representa-
19 tions, a fine in an amount not to exceed
20 \$5,000 per affected worker and designa-
21 tion as an ineligible employer, recruiter, or
22 broker for purposes of any immigrant or
23 nonimmigrant program.

24 “(3) CRIMINAL PENALTY.—Any person who
25 misrepresents the number of full-time equivalent em-

1 ployees of an employer or the number of employees
2 of a person who are United States workers for the
3 purpose of reducing a fee under subsection (e)(6) or
4 avoiding the limitation in subsection (e)(7), shall be
5 fined in accordance with title 18, United States
6 Code, in an amount up to \$25,000 or imprisoned
7 not more than 1 year, or both.

8 “(p) MONITORING.—

9 “(1) REQUIREMENT TO MONITOR.—The Sec-
10 retary shall monitor the movement of W non-
11 immigrants in registered positions through—

12 “(A) the Employment Verification System
13 described in section 274A(d); and

14 “(B) the electronic monitoring system de-
15 scribed in paragraph (2).

16 “(2) ELECTRONIC MONITORING SYSTEM.—The
17 Secretary, through U.S. Citizenship and Immigra-
18 tion Services, shall implement an electronic moni-
19 toring system to monitor presence and employment
20 of W nonimmigrants. Such system shall be modeled
21 on the Student and Exchange Visitor Information
22 System (SEVIS) and SEVIS II tracking system of
23 U.S. Immigration and Customs Enforcement.”.

24 (2) TABLE OF CONTENTS AMENDMENT.—The
25 table of contents in the first section (8 U.S.C. 1101

1 et seq.) is amended by adding after the item relating
2 to section 219 the following:

“Sec. 220. Admission of W nonimmigrant workers.”.

3 (b) INTENTION TO ABANDON FOREIGN RESI-
4 DENCE.—Section 214(h) (8 U.S.C. 1184(h)) is amended
5 by striking “or (V)” and inserting “(V), or (W)”.

6 **Subtitle H—Investing in New Ven-**
7 **ture, Entrepreneurial Startups,**
8 **and Technologies**

9 **SEC. 4801. NONIMMIGRANT INVEST VISAS.**

10 (a) INVEST NONIMMIGRANT CATEGORY.—Section
11 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sec-
12 tions 2231, 4504, and 4702, is further amended by insert-
13 ing after the material added by section 2231, the fol-
14 lowing:

15 “(X) subject to the definitions in section
16 203(b)(6), is a qualified entrepreneur who has
17 demonstrated, during the 3-year period ending
18 on the date on which the alien filed an initial
19 petition for nonimmigrant status described in
20 this clause that—

21 “(i) a qualified venture capitalist, a
22 qualified super angel investor, a qualified
23 government entity, a qualified community
24 development financial institution, or such
25 other entity or set of investors, as deter-

1 mined by the Secretary, has devoted a
2 qualified investment of not less than
3 \$100,000 to the alien's United States busi-
4 ness entity; or

5 “(ii) the alien's United States busi-
6 ness entity has created no fewer than 3
7 qualified jobs and during the 2-year period
8 ending on such date has generated not less
9 than \$250,000 in annual revenue in the
10 United States.”.

11 (b) ~~ADMISSION OF INVEST NONIMMIGRANTS.~~—See
12 ~~tion 214 (8 U.S.C. 1184)~~ is amended by adding at the
13 end the following:

14 “(s) ~~INVEST NONIMMIGRANT VISAS.~~—

15 “(1) ~~DEFINITIONS.~~—The definitions in section
16 ~~203(b)(6)(A)~~ apply in this subsection.

17 “(2) ~~INITIAL PERIOD OF AUTHORIZED ADMIS-~~
18 ~~SION.~~—The period of authorized status as a non-
19 immigrant described in section ~~101(a)(15)(X)~~ shall
20 be for an initial 3-year period.

21 “(3) ~~RENEWAL OF ADMISSION.~~—Subject to
22 paragraph (4), the initial period of authorized non-
23 immigrant status described in paragraph (2) may be
24 renewed for additional 3-year periods if during the

1 most recent 3-year period that the alien was granted
2 such status—

3 “(A) the alien’s United States business en-
4 tity has created no fewer than 3 qualified jobs
5 and a qualified venture capitalist, a qualified
6 super angel investor, a qualified government en-
7 tity, a qualified community development finan-
8 cial institution, or such other entity or set of in-
9 vestors as determined by the Secretary, has de-
10 voted a qualified investment of not less than
11 \$250,000 to the alien’s United States business
12 entity; or

13 “(B) the alien’s United States business en-
14 tity has created no fewer than 3 qualified jobs
15 and, during the 2 year period ending on the
16 date that the alien petitioned for an extension,
17 has generated not less than \$200,000 in annual
18 revenue within the United States.

19 “(4) WAIVER OF RENEWAL REQUIREMENTS.—
20 The Secretary may renew an alien’s status as a non-
21 immigrant described in section 101(a)(15)(X) for up
22 to two 1-year periods if the alien—

23 “(A) does not meet the criteria of para-
24 graph (3); and

1 “(B) meets the criteria established by the
2 Secretary, in consultation with the Secretary of
3 Commerce, for approving renewals under this
4 subclause which shall include finding that—

5 “(i) the alien has made substantial
6 progress in meeting such criteria; and

7 “(ii) such renewal that is economically
8 beneficial to the United States.

9 “~~(5)~~ ATTESTATION.—The Secretary may re-
10 quire an alien seeking status under section
11 101(a)(15)(X) to attest, under penalties of perjury,
12 to the alien’s qualifications.”.

13 **SEC. 4802. INVEST IMMIGRANT VISA.**

14 (a) ESTABLISHMENT OF INVEST NONIMMIGRANT
15 VISA.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

16 (1) by redesignating paragraph (6) as para-
17 graph (7); and

18 (2) by inserting after paragraph (5) the fol-
19 lowing:

20 “~~(6)~~ INVEST IMMIGRANTS.—

21 “(A) DEFINITIONS.—In this paragraph,
22 section 101(a)(15)(X), and section 214(s):

23 “(i) QUALIFIED COMMUNITY DEVELOP-
24 MENT FINANCIAL INSTITUTION.—The
25 term ‘qualified community development fi-

1 nancial institution' is defined as provided
2 under section 1805.201 45D(e) of title 12,
3 Code of Federal Regulations, or any simi-
4 lar successor regulations.

5 “(ii) QUALIFIED ENTREPRENEUR.—

6 The term ‘qualified entrepreneur’ means
7 an individual who—

8 “(I) has a significant ownership

9 interest, which need not constitute a
10 majority interest, in a United States
11 business entity;

12 “(II) is employed in a senior ex-

13 ecutive position of such United States
14 business entity;

15 “(III) submits a business plan to

16 U.S. Citizenship and Immigration
17 Services; and

18 “(IV) had a substantial role in

19 the founding or early-stage growth
20 and development of such United
21 States business entity.

22 “(iii) QUALIFIED GOVERNMENT ENTI-

23 TY.—The term ‘qualified government enti-
24 ty’ means an agency or instrumentality of

1 the United States or of a State, local, or
2 tribal government.

3 “(iv) QUALIFIED INVESTMENT.—The
4 term ‘qualified investment’—

5 “(I) means an investment in a
6 qualified entrepreneur’s United States
7 business entity that is—

8 “(aa) an equity purchase;

9 “(bb) a secured loan;

10 “(cc) a convertible debt
11 note;

12 “(dd) a public securities of-
13 fering;

14 “(ee) a research and devel-
15 opment award from a qualified
16 government entity;

17 “(ff) other investment deter-
18 mined appropriate by the Sec-
19 retary; or

20 “(gg) a combination of the
21 investments described in items
22 (aa) through (ff); and

23 “(II) may not include an invest-
24 ment from such qualified entre-
25 preneur, the parents, spouse, son or

1 daughter of such qualified entre-
2 preneur, or from any corporation,
3 company, association, firm, partner-
4 ship, society, or joint stock company
5 over which such qualified entre-
6 preneur has a substantial ownership
7 interest.

8 “(v) QUALIFIED JOB.—The term
9 ‘qualified job’ means a full-time position of
10 United States business entity owned by a
11 qualified entrepreneur that—

12 “(I) is located in the United
13 States;

14 “(II) has been filled by an indi-
15 vidual who is not the qualified entre-
16 preneur or the spouse, son, or daugh-
17 ter of the qualified entrepreneur for at
18 least 2 years; and

19 “(III) pays a wage that is not
20 less than 250 percent of the Federal
21 minimum wage.

22 “(vi) QUALIFIED SUPER ANGEL IN-
23 VESTOR.—The term ‘qualified super angel
24 investor’ means an individual or organized

1 group of individuals investing directly or
2 through a legal entity—

3 “(I) each of whom is an accredited
4 ited investor, as defined in section
5 230.501(a) of title 17, Code of Federal
6 Regulations, or any similar successor
7 regulation, investing the funds
8 owned by such individual or organized
9 group in a qualified entrepreneur’s
10 United States business entity;

11 “(II)(aa) if an individual, is a citizen
12 of the United States or an alien
13 lawfully admitted for permanent residence;
14 or

15 “(bb) if an organized group or
16 legal entity, a majority of the individuals
17 investing through such group or
18 entity are citizens of the United
19 States or aliens lawfully admitted for
20 permanent residence; and

21 “(III) each of whom in the previous
22 3 years has made qualified investments
23 in a total amount determined to be
24 appropriate by the Secretary, that is not
25 less than \$50,000;

1 in United States business entities
2 which are less than 5 years old.

3 “(vii) QUALIFIED VENTURE CAPI-
4 TALIST.—The term ‘qualified venture capi-
5 talist’ means an entity—

6 “(I) that—

7 “(aa) is a venture capital
8 operating company, as defined in
9 section 2510.3-110(d) of title 29,
10 Code of Federal Regulations (or
11 any successor thereto); or

12 “(bb) has management
13 rights, as defined in, and to the
14 extent required by, such section
15 2510.3-110 (d) (or successor
16 thereto), in its portfolio compa-
17 nies;

18 “(II) that has capital commit-
19 ments of not less than \$10,000,000;
20 and

21 “(III) the investment adviser, as
22 defined in section 202 of the Invest-
23 ment Advisers Act of 1940 (15 U.S.C.
24 80b-2), for which—

1 “(aa) has its primary office
2 location in the United States;

3 “(bb) is owned, directly or
4 indirectly, by individuals, the ma-
5 jority of whom are citizens of the
6 United States or aliens lawfully
7 admitted for permanent residence
8 in the United States;

9 “(cc) has been advising such
10 entity or other similar funds or
11 entities for at least 2 years; and

12 “(dd) has made, on behalf of
13 such entity or a similar fund or
14 entity, at least 2 investments of
15 not less than \$500,000 during
16 each of the most recent 2 years.

17 “(viii) SECRETARY.—Except as other-
18 wise specifically provided, the term ‘Sec-
19 retary’ means the Secretary of Homeland
20 Security.

21 “(ix) SENIOR EXECUTIVE POSITION.—
22 The term ‘senior executive position’ in-
23 cludes the position of chief executive offi-
24 cer, chief technology officer, and chief op-
25 erating officer.

1 ~~“(x) UNITED STATES BUSINESS ENTI-~~
2 ~~TY.—The term ‘business entity’ means any~~
3 ~~corporation, company, association, firm,~~
4 ~~partnership, society, or joint stock com-~~
5 ~~pany that is organized under the laws of~~
6 ~~the United States or any State and that~~
7 ~~conducts business in the United States~~
8 ~~that is not—~~

9 ~~“(I) a private fund, as defined in~~
10 ~~202(a) of the Investment Advisers Act~~
11 ~~of 1940 (15 U.S.C. 80b-2);~~

12 ~~“(II) a commodity pool, as de-~~
13 ~~fin ed in section 1a of the Commodity~~
14 ~~Exchange Act (7 U.S.C. 1a);~~

15 ~~“(III) an investment company, as~~
16 ~~defined in section 3 of the Investment~~
17 ~~Company Act of 1940 (15 U.S.C.~~
18 ~~80a-3); or~~

19 ~~“(IV) an issuer that would be an~~
20 ~~investment company but for an ex-~~
21 ~~emption provided in—~~

22 ~~“(aa) section 3(e) of the In-~~
23 ~~vestment Company Act of 1940~~
24 ~~(15 U.S.C. 80a-3(e); or~~

1 “(BB) a qualified venture capi-
2 talist, a qualified super angel investor,
3 a qualified government entity, a quali-
4 fied community development financial
5 institution, or such other entity or set
6 of investors, as determined by the
7 Secretary, has devoted a qualified in-
8 vestment of not less than \$500,000 to
9 the alien’s United States business en-
10 tity; or

11 “(bb)(AA) the alien has a signifi-
12 cant ownership interest in a United
13 States business entity that has cre-
14 ated no fewer than 5 qualified jobs;
15 and

16 “(BB) during the 2-year period
17 ending on such date has generated not
18 less than \$750,000 in annual revenue
19 within the United States; and

20 “(IV) no more than 2 other aliens
21 have received nonimmigrant status under
22 this section on the basis of an alien’s own-
23 ership of such business entity;

24 “(ii)(I) the alien is a qualified entre-
25 preneur;

1 “(II) the alien maintained valid non-
2 immigrant status in the United States for
3 at least 3 years prior to the date of filing
4 an application for such status;

5 “(III) the alien holds an advanced de-
6 gree in a field of science, technology, engi-
7 neering, and mathematics, approved by the
8 Secretary; and

9 “(IV) during the 3-year period ending
10 on the date the alien files an initial peti-
11 tion for such status under this section—

12 “(aa)(AA) the alien has a signifi-
13 cant ownership interest in a United
14 States business entity that has cre-
15 ated no fewer than 4 qualified jobs;
16 and

17 “(BB) a qualified venture capi-
18 talist, a qualified super angel investor,
19 a qualified government entity, a quali-
20 fied community development financial
21 institution, or such other entity or set
22 of investors, as determined by the
23 Secretary, has devoted a qualified in-
24 vestment of not less than \$500,000 to

1 the alien's United States business en-
2 tity; or

3 “(bb)(AA) the alien has a signifi-
4 cant ownership interest in a United
5 States business entity that has cre-
6 ated no fewer than 3 qualified jobs;
7 and

8 “(BB) during the 2-year period
9 ending on such date has generated not
10 less than \$500,000 in annual revenue
11 within the United States; and

12 “(V) no more than 3 other aliens have
13 received nonimmigrant status under this
14 section on the basis of an alien's ownership
15 of such business entity.

16 “(D) ATTESTATION.—The Secretary may
17 require an alien seeking visa under this para-
18 graph to attest, under penalties of perjury, to
19 the alien's qualifications.”

20 (b) PETITION.—Section 204(a)(1)(H) (8 U.S.C.
21 1154(a)(1)(H)) is amended—

22 (1) by striking “203(b)(5)” and inserting
23 “paragraph (5) or (6) of section 203(b)”; and

24 (2) by striking “Attorney General” and insert-
25 ing “Secretary of Homeland Security”.

1 **SEC. 4803. ADMINISTRATION AND OVERSIGHT.**

2 (a) REGULATIONS.—Not later than 16 months after
3 the date of the enactment of this Act, the Secretary, in
4 consultation with the Secretary of Commerce, the Admin-
5 istrator of the Small Business Administration, and other
6 heads of other relevant Federal agencies and department,
7 shall promulgate regulations to carry out the amendments
8 made by this subtitle. Such regulations shall ensure that
9 such amendments are implemented in a manner that is
10 consistent with the protection of national security and pro-
11 motion United States economic growth, job creation, and
12 competitiveness.

13 (b) MODIFICATION OF DOLLAR AMOUNTS.—

14 (1) IN GENERAL.—The Secretary may from
15 time to time prescribe regulations increasing or de-
16 creasing any dollar amount specified in paragraph
17 (6) of section 203(b) of the Immigration and Na-
18 tionality Act, as added by section __2, subparagraph
19 (X) of section 101(a)(15) of such Act, as added by
20 section 4801, or subsection (s) of section 214, as
21 added by 4802.

22 (2) AUTOMATIC ADJUSTMENT.—Unless a dollar
23 amount referred to in paragraph (1) is adjusted by
24 the Secretary under paragraph (1), such dollar
25 amounts shall automatically adjust on January 1,
26 2016 by the percentage change in the Consumer

1 Price Index (CPI-U) during fiscal year 2015, and
2 on every fifth subsequent January 1 by the percent-
3 age change in the CPI-U during the previous five
4 fiscal years; for any petition filed to classify an alien
5 under this paragraph on or after the date of each
6 automatic adjustment.

7 (e) OTHER AUTHORITY.—The Secretary, in the Sec-
8 retary’s unreviewable discretion, may deny or revoke the
9 approval of a petition seeking classification of an alien
10 under this paragraph or any other petition, application,
11 or benefit based upon the previous or concurrent filing or
12 approval of a petition for classification of an alien under
13 this paragraph, if the Secretary determines, in the Sec-
14 retary’s sole and unreviewable discretion, that the ap-
15 proval or continuation of such petition, application, or
16 benefit is contrary to the national interest of the United
17 States or for other good cause.

18 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

19 (a) *SHORT TITLE.*—*This Act may be cited as the*
20 *“Border Security, Economic Opportunity, and Immigra-*
21 *tion Modernization Act”.*

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

- Sec. 1. Short title; table of contents.*
- Sec. 2. Statement of congressional findings.*
- Sec. 3. Effective date triggers.*
- Sec. 4. Southern Border Security Commission.*

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- Sec. 5. Comprehensive Southern Border Security Strategy and Southern Border Fencing Strategy.*
- Sec. 6. Comprehensive Immigration Reform Funds.*
- Sec. 7. Reference to the Immigration and Nationality Act.*
- Sec. 8. Definitions.*
- Sec. 9. Grant accountability.*

TITLE I—BORDER SECURITY

- Sec. 1101. Definitions.*
- Sec. 1102. Additional U.S. Customs and Border Protection officers.*
- Sec. 1103. National Guard support to secure the Southern border.*
- Sec. 1104. Enhancement of existing border security operations.*
- Sec. 1105. Border security on certain Federal land.*
- Sec. 1106. Equipment and technology.*
- Sec. 1107. Access to emergency personnel.*
- Sec. 1108. Southwest Border Region Prosecution Initiative.*
- Sec. 1109. Interagency collaboration.*
- Sec. 1110. State Criminal Alien Assistance Program.*
- Sec. 1111. Use of force.*
- Sec. 1112. Training for border security and immigration enforcement officers.*
- Sec. 1113. Department of Homeland Security Border Oversight Task Force.*
- Sec. 1114. Ombudsman for Immigration Related Concerns of the Department of Homeland Security.*
- Sec. 1115. Protection of family values in apprehension programs.*
- Sec. 1116. Reports.*
- Sec. 1117. Severability and delegation.*
- Sec. 1118. Prohibition on land border crossing fees.*
- Sec. 1119. Human Trafficking Reporting.*
- Sec. 1120. Rule of construction.*
- Sec. 1121. Limitations on dangerous deportation practices.*

*TITLE II—IMMIGRANT VISAS**Subtitle A—Registration and Adjustment of Registered Provisional Immigrants*

- Sec. 2101. Registered provisional immigrant status.*
- Sec. 2102. Adjustment of status of registered provisional immigrants.*
- Sec. 2103. The DREAM Act.*
- Sec. 2104. Additional requirements.*
- Sec. 2105. Criminal penalty.*
- Sec. 2106. Grant program to assist eligible applicants.*
- Sec. 2107. Conforming amendments to the Social Security Act.*
- Sec. 2108. Government contracting and acquisition of real property interest.*
- Sec. 2109. Long-term legal residents of the Commonwealth of the Northern Mariana Islands.*
- Sec. 2110. Rulemaking.*
- Sec. 2111. Statutory construction.*

Subtitle B—Agricultural Worker Program

- Sec. 2201. Short title.*
- Sec. 2202. Definitions.*

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CHAPTER 1—PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SUBCHAPTER A—BLUE CARD STATUS

- Sec. 2211. Requirements for blue card status.*
- Sec. 2212. Adjustment to permanent resident status.*
- Sec. 2213. Use of information.*
- Sec. 2214. Reports on blue cards.*
- Sec. 2215. Authorization of appropriations.*

SUBCHAPTER B—CORRECTION OF SOCIAL SECURITY RECORDS

- Sec. 2221. Correction of social security records.*

CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISA PROGRAM

- Sec. 2231. Nonimmigrant classification for nonimmigrant agricultural workers.*
- Sec. 2232. Establishment of nonimmigrant agricultural worker program.*
- Sec. 2233. Transition of H-2A Worker Program.*
- Sec. 2234. Reports to Congress on nonimmigrant agricultural workers.*

CHAPTER 3—OTHER PROVISIONS

- Sec. 2241. Rulemaking.*
- Sec. 2242. Reports to Congress.*
- Sec. 2243. Benefits integrity programs.*
- Sec. 2244. Effective date.*

Subtitle C—Future Immigration

- Sec. 2301. Merit-based points track one.*
- Sec. 2302. Merit-based track two.*
- Sec. 2303. Repeal of the diversity visa program.*
- Sec. 2304. Worldwide levels and recapture of unused immigrant visas.*
- Sec. 2305. Reclassification of spouses and minor children of lawful permanent residents as immediate relatives.*
- Sec. 2306. Numerical limitations on individual foreign states.*
- Sec. 2307. Allocation of immigrant visas.*
- Sec. 2308. Inclusion of communities adversely affected by a recommendation of the Defense Base Closure and Realignment Commission as targeted employment areas.*
- Sec. 2309. V nonimmigrant visas.*
- Sec. 2310. Fiancée and fiancé child status protection.*
- Sec. 2311. Equal treatment for all stepchildren.*
- Sec. 2312. Modification of adoption age requirements.*
- Sec. 2313. Relief for orphans, widows, and widowers.*
- Sec. 2314. Discretionary authority with respect to removal, deportation, or inadmissibility of citizen and resident immediate family members.*
- Sec. 2315. Waivers of inadmissibility.*
- Sec. 2316. Continuous presence.*
- Sec. 2317. Global health care cooperation.*
- Sec. 2318. Extension and improvement of the Iraqi special immigrant visa program.*
- Sec. 2319. Extension and improvement of the Afghan special immigrant visa program.*
- Sec. 2320. Special Immigrant Nonminister Religious Worker Program.*

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- Sec. 2321. Special immigrant status for certain surviving spouses and children.*
Sec. 2322. Reunification of certain families of Filipino veterans of World War II.

Subtitle D—Conrad State 30 and Physician Access

- Sec. 2401. Conrad State 30 Program.*
Sec. 2402. Retaining physicians who have practiced in medically underserved communities.
Sec. 2403. Employment protections for physicians.
Sec. 2404. Allotment of Conrad 30 waivers.
Sec. 2405. Amendments to the procedures, definitions, and other provisions related to physician immigration.

Subtitle E—Integration

- Sec. 2501. Definitions.*

CHAPTER 1—CITIZENSHIP AND NEW AMERICANS

SUBCHAPTER A—OFFICE OF CITIZENSHIP AND NEW AMERICANS

- Sec. 2511. Office of Citizenship and New Americans.*

SUBCHAPTER B—TASK FORCE ON NEW AMERICANS

- Sec. 2521. Establishment.*
Sec. 2522. Purpose.
Sec. 2523. Membership.
Sec. 2524. Functions.

CHAPTER 2—PUBLIC-PRIVATE PARTNERSHIP

- Sec. 2531. Establishment of United States Citizenship Foundation.*
Sec. 2532. Funding.
Sec. 2533. Purposes.
Sec. 2534. Authorized activities.
Sec. 2535. Council of directors.
Sec. 2536. Powers.
Sec. 2537. Initial Entry, Adjustment, and Citizenship Assistance Grant Program.
Sec. 2538. Pilot program to promote immigrant integration at State and local levels.
Sec. 2539. Naturalization ceremonies.

CHAPTER 3—FUNDING

- Sec. 2541. Authorization of appropriations.*

CHAPTER 4—REDUCE BARRIERS TO NATURALIZATION

- Sec. 2551. Waiver of English requirement for senior new Americans.*
Sec. 2552. Filing of applications not requiring regular internet access.
Sec. 2553. Permissible use of assisted housing by battered immigrants.

TITLE III—INTERIOR ENFORCEMENT

Subtitle A—Employment Verification System

- Sec. 3101. Unlawful employment of unauthorized aliens.*
Sec. 3102. Increasing security and integrity of social security cards.

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- Sec. 3103. Increasing security and integrity of immigration documents.*
Sec. 3104. Responsibilities of the Social Security Administration.
Sec. 3105. Improved prohibition on discrimination based on national origin or citizenship status.
Sec. 3106. Rulemaking.
Sec. 3107. Office of the Small Business and Employee Advocate.

Subtitle B—Protecting United States Workers

- Sec. 3201. Protections for victims of serious violations of labor and employment law or crime.*
Sec. 3202. Employment Verification System Education Funding.
Sec. 3203. Directive to the United States Sentencing Commission.

Subtitle C—Other Provisions

- Sec. 3301. Funding.*
Sec. 3302. Effective date.
Sec. 3303. Mandatory exit system.
Sec. 3304. Identity-theft resistant manifest information for passengers, crew, and non-crew onboard departing aircraft and vessels.
Sec. 3305. Profiling.
Sec. 3306. Enhanced penalties for certain drug offenses on Federal lands.

Subtitle D—Asylum and Refugee Provisions

- Sec. 3401. Time limits and efficient adjudication of genuine asylum claims.*
Sec. 3402. Refugee family protections.
Sec. 3403. Clarification on designation of certain refugees.
Sec. 3404. Asylum determination efficiency.
Sec. 3405. Stateless persons in the United States.
Sec. 3406. U visa accessibility.
Sec. 3407. Work authorization while applications for U and T visas are pending.
Sec. 3408. Representation at overseas refugee interviews.
Sec. 3409. Law enforcement and national security checks.
Sec. 3410. Tibetan refugee assistance.
Sec. 3411. Termination of asylum or refugee status.
Sec. 3412. Asylum clock.

Subtitle E—Shortage of Immigration Court Resources for Removal Proceedings

- Sec. 3501. Shortage of immigration court personnel for removal proceedings.*
Sec. 3502. Improving immigration court efficiency and reducing costs by increasing access to legal information.
Sec. 3503. Office of Legal Access Programs.
Sec. 3504. Codifying Board of Immigration Appeals.
Sec. 3505. Improved training for immigration judges and Board Members.
Sec. 3506. Improved resources and technology for immigration courts and Board of Immigration Appeals.
Sec. 3507. Transfer of responsibility for trafficking protections.

Subtitle F—Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad

- Sec. 3601. Definitions.*
Sec. 3602. Disclosure.
Sec. 3603. Prohibition on discrimination.

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- Sec. 3604. Recruitment fees.*
- Sec. 3605. Registration.*
- Sec. 3606. Bonding requirement.*
- Sec. 3607. Maintenance of lists.*
- Sec. 3608. Amendment to the Immigration and Nationality Act.*
- Sec. 3609. Responsibilities of Secretary of State.*
- Sec. 3610. Enforcement provisions.*
- Sec. 3611. Detecting and preventing child trafficking.*
- Sec. 3612. Protecting child trafficking victims.*
- Sec. 3613. Best interests of the child.*
- Sec. 3614. Rule of construction.*
- Sec. 3615. Regulations.*

Subtitle G—Interior Enforcement

- Sec. 3701. Criminal street gangs.*
- Sec. 3702. Banning habitual drunk drivers from the United States.*
- Sec. 3703. Sexual abuse of a minor.*
- Sec. 3704. Illegal entry.*
- Sec. 3705. Reentry of removed alien.*
- Sec. 3706. Penalties related to removal.*
- Sec. 3707. Reform of passport, visa, and immigration fraud offenses.*
- Sec. 3708. Combating schemes to defraud aliens.*
- Sec. 3709. Inadmissibility and removal for passport and immigration fraud of-
fenses.*
- Sec. 3710. Directives related to passport and document fraud.*
- Sec. 3711. Inadmissible aliens.*
- Sec. 3712. Organized and abusive human smuggling activities.*
- Sec. 3713. Preventing criminals from renouncing citizenship during wartime.*
- Sec. 3714. Diplomatic security service.*
- Sec. 3715. Secure alternatives programs.*
- Sec. 3716. Oversight of detention facilities.*
- Sec. 3717. Procedures for bond hearings and filing of notices to appear.*
- Sec. 3718. Sanctions for countries that delay or prevent repatriation of their na-
tionals.*
- Sec. 3719. Gross violations of human rights.*
- Sec. 3720. Reporting and record-keeping requirements relating to the detention of
aliens.*
- Sec. 3721. Consideration of eligibility for certain public assistance for purposes
of determining if aliens are public charges.*
- Sec. 3722. Powers of immigration officers and employees at sensitive locations.*

Subtitle H—Protection of Children Affected by Immigration Enforcement

- Sec. 3801. Short title.*
- Sec. 3802. Definitions.*
- Sec. 3803. Apprehension procedures for immigration enforcement-related activi-
ties.*
- Sec. 3804. Access to children, State and local courts, child welfare agencies, and
consular officials.*
- Sec. 3805. Mandatory training.*
- Sec. 3806. Rulemaking.*
- Sec. 3807. Severability.*

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*TITLE IV—REFORMS TO NONIMMIGRANT VISA PROGRAMS**Subtitle A—Employment-based Nonimmigrant Visas*

- Sec. 4101. Market-based H-1B Visa limits.*
- Sec. 4102. Employment authorization for dependents of employment-based non-immigrants.*
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*Subtitle B—H-1B Visa Fraud and Abuse Protections**CHAPTER 1—H-1B EMPLOYER APPLICATION REQUIREMENTS*

- Sec. 4211. Modification of application requirements.*
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- Sec. 4221. General modification of procedures for investigation and disposition.*
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- Sec. 4231. Posting available positions through the Department of Labor.*
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- Sec. 4301. Prohibition on outplacement of L nonimmigrants.*
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- Sec. 4306. Investigation and disposition of complaints against L nonimmigrant employers.*
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- Sec. 4308. Prohibition on retaliation against L nonimmigrants.*
- Sec. 4309. Reports on L nonimmigrants.*
- Sec. 4310. Application.*
- Sec. 4311. Report on L blanket petition process.*

Subtitle D—Other Nonimmigrant Visas

- Sec. 4401. Nonimmigrant visas for students.*

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- Sec. 4402. Classification for specialty occupation workers from free trade countries.*
- Sec. 4403. E-visa reform.*
- Sec. 4404. Other changes to nonimmigrant visas.*
- Sec. 4405. Treatment of nonimmigrants during adjudication of application.*
- Sec. 4406. Nonimmigrant elementary and secondary school students.*
- Sec. 4407. J-1 Summer Work Travel Visa Exchange Visitor Program fee.*
- Sec. 4408. J visa eligibility for speakers of certain foreign languages.*
- Sec. 4409. F-1 Visa fee.*
- Sec. 4410. Pilot program for remote B nonimmigrant visa interviews.*
- Sec. 4411. Providing consular officers with access to all terrorist databases and requiring heightened scrutiny of applications for admission from persons listed on terrorist databases.*
- Sec. 4412. Visa revocation information.*
- Sec. 4413. Status for certain battered spouses and children.*
- Sec. 4414. Nonimmigrant crewmen landing temporarily in Hawaii.*

Subtitle E—JOLT Act

- Sec. 4501. Short titles.*
- Sec. 4502. Premium processing.*
- Sec. 4503. Encouraging Canadian tourism to the United States.*
- Sec. 4504. Retiree visa.*
- Sec. 4505. Incentives for foreign visitors visiting the United States during low peak seasons.*
- Sec. 4506. Visa waiver program enhanced security and reform.*
- Sec. 4507. Expediting entry for priority visitors.*
- Sec. 4508. Visa processing.*
- Sec. 4509. B Visa fee.*

Subtitle F—Reforms to the H-2B Visa Program

- Sec. 4601. Extension of returning worker exemption to H-2B numerical limitation.*
- Sec. 4602. Other requirements for H-2B employers.*
- Sec. 4603. Executives and managers.*
- Sec. 4604. Honoraria.*
- Sec. 4605. Nonimmigrants participating in relief operations.*
- Sec. 4606. Nonimmigrants performing maintenance on common carriers.*

Subtitle G—W Nonimmigrant Visas

- Sec. 4701. Bureau of Immigration and Labor Market Research.*
- Sec. 4702. Nonimmigrant classification for W nonimmigrants.*
- Sec. 4703. Admission of W nonimmigrant workers.*

Subtitle H—Investing in New Venture, Entrepreneurial Startups, and Technologies

- Sec. 4801. Nonimmigrant INVEST visas.*
- Sec. 4802. INVEST immigrant visa.*
- Sec. 4803. Administration and oversight.*
- Sec. 4804. Permanent authorization of EB-5 Regional Center Program.*
- Sec. 4805. Conditional permanent resident status for employment-based immigrants, spouses, and children.*
- Sec. 4806. EB-5 Visa reforms.*
- Sec. 4807. Authorization of appropriations.*

Subtitle I—Student and Exchange Visitor Programs

- Sec. 4901. Short title.*
Sec. 4902. SEVIS and SEVP defined.
Sec. 4903. Increased criminal penalties.
Sec. 4904. Accreditation requirement.
Sec. 4905. Other academic institutions.
Sec. 4906. Penalties for failure to comply with SEVIS reporting requirements.
Sec. 4907. Visa fraud.
Sec. 4908. Background checks.
Sec. 4909. Revocation of authority to issue Form I-20 of flight schools not certified by the Federal Aviation Administration.
Sec. 4910. Revocation of accreditation.
Sec. 4911. Report on risk assessment.
Sec. 4912. Implementation of GAO recommendations.
Sec. 4913. Implementation of SEVIS II.

1 SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS.

2 *Congress makes the following findings:*

3 *(1) The passage of this Act recognizes that the*
 4 *primary tenets of its success depend on securing the*
 5 *sovereignty of the United States of America and es-*
 6 *tablishing a coherent and just system for integrating*
 7 *those who seek to join American society.*

8 *(2) We have a right, and duty, to maintain and*
 9 *secure our borders, and to keep our country safe and*
 10 *prosperous. As a Nation founded, built and sustained*
 11 *by immigrants we also have a responsibility to har-*
 12 *ness the power of that tradition in a balanced way*
 13 *that secures a more prosperous future for America.*

14 *(3) We have always welcomed newcomers to the*
 15 *United States and will continue to do so. But in*
 16 *order to qualify for the honor and privilege of even-*
 17 *tual citizenship, our laws must be followed. The world*
 18 *depends on America to be strong—economically, mili-*

1 *tarily and ethically. The establishment of a stable,*
2 *just, and efficient immigration system only supports*
3 *those goals. As a Nation, we have the right and re-*
4 *sponsibility to make our borders safe, to establish*
5 *clear and just rules for seeking citizenship, to control*
6 *the flow of legal immigration, and to eliminate illegal*
7 *immigration, which in some cases has become a threat*
8 *to our national security.*

9 *(4) All parts of this Act are premised on the*
10 *right and need of the United States to achieve these*
11 *goals, and to protect its borders and maintain its sov-*
12 *ereignty.*

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

14 *(a) DEFINITIONS.—In this section:*

15 *(1) COMMISSION.—The term “Commission”*
16 *means the Southern Border Security Commission es-*
17 *tablished pursuant to section 4.*

18 *(2) COMPREHENSIVE SOUTHERN BORDER SECU-*
19 *RITY STRATEGY.—The term “Comprehensive Southern*
20 *Border Security Strategy” means the strategy estab-*
21 *lished by the Secretary pursuant to section 5(a) to*
22 *achieve and maintain an effectiveness rate of 90 per-*
23 *cent or higher in all border sectors.*

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

4 (A) persistent surveillance; and

5 (B) an effectiveness rate of 90 percent or
6 higher.

7 (4) *EFFECTIVENESS RATE*.—The “effectiveness
8 rate”, in the case of a border sector, is the percentage
9 calculated by dividing the number of apprehensions
10 and turn backs in the sector during a fiscal year by
11 the total number of illegal entries in the sector during
12 such fiscal year.

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

16 (6) *SOUTHERN BORDER FENCING STRATEGY*.—
17 The term “Southern Border Fencing Strategy” means
18 the strategy established by the Secretary pursuant to
19 section 5(b) that identifies where fencing (including
20 double-layer fencing), infrastructure, and technology,
21 including at ports of entry, should be deployed along
22 the Southern border.

23 (b) *BORDER SECURITY GOAL*.—The Department’s bor-
24 der security goal is to achieve and maintain effective con-
25 trol in all border sectors along the Southern border.

1 (c) *TRIGGERS.*—

2 (1) *PROCESSING OF APPLICATIONS FOR REG-*
3 *ISTERED PROVISIONAL IMMIGRANT STATUS.*—*Not ear-*
4 *lier than the date upon which the Secretary has sub-*
5 *mitted to Congress the Notice of Commencement of*
6 *implementation of the Comprehensive Southern Bor-*
7 *der Security Strategy and the Southern Border Fenc-*
8 *ing Strategy under section 5 of this Act, the Secretary*
9 *may commence processing applications for registered*
10 *provisional immigrant status pursuant to section*
11 *245B of the Immigration and Nationality Act, as*
12 *added by section 2101 of this Act.*

13 (2) *ADJUSTMENT OF STATUS OF REGISTERED*
14 *PROVISIONAL IMMIGRANTS.*—

15 (A) *IN GENERAL.*—*Except as provided in*
16 *subparagraph (B), the Secretary may not adjust*
17 *the status of aliens who have been granted reg-*
18 *istered provisional immigrant status, except for*
19 *aliens granted blue card status under section*
20 *2201 of this Act or described in section 245D(b)*
21 *of the Immigration and Nationality Act, until*
22 *the Secretary, after consultation with the Comp-*
23 *troller General of the United States, submits to*
24 *the President and Congress a written certifi-*
25 *cation that—*

1 *(i) the Comprehensive Southern Border*
2 *Security Strategy has been submitted to*
3 *Congress and is substantially deployed and*
4 *substantially operational;*

5 *(ii) the Southern Border Fencing*
6 *Strategy has been submitted to Congress,*
7 *implemented, and is substantially com-*
8 *pleted;*

9 *(iii) the Secretary has implemented the*
10 *mandatory employment verification system*
11 *required by section 274A of the Immigra-*
12 *tion and Nationality Act (8 U.S.C. 1324a),*
13 *as amended by section 3101, for use by all*
14 *employers to prevent unauthorized workers*
15 *from obtaining employment in the United*
16 *States; and*

17 *(iv) the Secretary is using an elec-*
18 *tronic exit system at air and sea ports of*
19 *entry that operates by collecting machine-*
20 *readable visa or passport information from*
21 *air and vessel carriers.*

22 *(B) EXCEPTION.—The Secretary shall per-*
23 *mit registered provisional immigrants to apply*
24 *for an adjustment to lawful permanent resident*
25 *status if—*

1 (i)(I) *litigation or a force majeure has*
2 *prevented 1 or more of the conditions de-*
3 *scribed in clauses (i) through (iv) of sub-*
4 *paragraph (A) from being implemented; or*
5 (ii) *the implementation of subpara-*
6 *graph (A) has been held unconstitutional by*
7 *the Supreme Court of the United States or*
8 *the Supreme Court has granted certiorari to*
9 *the litigation on the constitutionality of im-*
10 *plementation of subparagraph (A); and*
11 (ii) *10 years have elapsed since the*
12 *date of the enactment of this Act.*

13 (d) *WAIVER OF LEGAL REQUIREMENTS NECESSARY*
14 *FOR IMPROVEMENT AT BORDERS.—Notwithstanding any*
15 *other provision of law, the Secretary is authorized to waive*
16 *all legal requirements that the Secretary determines to be*
17 *necessary to ensure expeditious construction of the barriers,*
18 *roads, or other physical tactical infrastructure needed to*
19 *fulfill the requirements under this section. Any determina-*
20 *tion by the Secretary under this section shall be effective*
21 *upon publication in the Federal Register of a notice that*
22 *specifies each law that is being waived and the Secretary’s*
23 *explanation for the determination to waive that law. The*
24 *waiver shall expire on the later of the date on which the*
25 *Secretary submits the written certification that the South-*

1 *ern Border Fencing Strategy is substantially completed as*
2 *specified in subsection (c)(2)(A)(ii) or the date that the Sec-*
3 *retary submits the written certification that the Com-*
4 *prehensive Southern Border Security Strategy is substan-*
5 *tially deployed and substantially operational as specified*
6 *in subsection (c)(2)(A)(i).*

7 *(e) FEDERAL COURT REVIEW.—*

8 *(1) IN GENERAL.—The district courts of the*
9 *United States shall have exclusive jurisdiction to hear*
10 *all causes or claims arising from any action under-*
11 *taken, or any decision made, by the Secretary under*
12 *subsection (d). A cause of action or claim may only*
13 *be brought alleging a violation of the Constitution of*
14 *the United States. The court does not have jurisdic-*
15 *tion to hear any claim not specified in this para-*
16 *graph.*

17 *(2) TIME FOR FILING COMPLAINT.—If a cause or*
18 *claim under paragraph (1) is not filed within 60*
19 *days after the date of the contested action or decision*
20 *by the Secretary, the claim shall be barred.*

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

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

2 (a) *ESTABLISHMENT.*—*If the Secretary certifies that*
3 *the Department has not achieved effective control in all bor-*
4 *der sectors during any fiscal year beginning before the date*
5 *that is 5 years after the date of the enactment of this Act,*
6 *not later than 60 days after such certification, there shall*
7 *be established a commission to be known as the “Southern*
8 *Border Security Commission” (referred to in this section*
9 *as the “Commission”).*

10 (b) *COMPOSITION.*—

11 (1) *IN GENERAL.*—*The Commission shall be com-*
12 *posed of—*

13 (A) *2 members who shall be appointed by*
14 *the President;*

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

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

22 (ii) *1 shall be appointed upon the rec-*
23 *ommendation of the leader in the Senate of*
24 *the other political party;*

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

4 (i) 1 shall be appointed upon the rec-
5 ommendation of the leader in the House of
6 Representatives of the political party that is
7 not the political party of the President; and

8 (ii) 1 shall be appointed upon the rec-
9 ommendation of the leader in the House of
10 Representatives of the other political party;
11 and

12 (D) 4 members, consisting of 1 member
13 from each of the States along the Southern bor-
14 der, who shall be—

15 (i) the Governor of such State; or

16 (ii) appointed by the Governor of each
17 such State.

18 (2) *QUALIFICATION FOR APPOINTMENT.*—Ap-
19 pointed members of the Commission shall be distin-
20 guished individuals noted for their knowledge and ex-
21 perience in the field of border security at the Federal,
22 State, or local level.

23 (3) *TIME OF APPOINTMENT.*—The appointments
24 required by paragraph (1) shall be made not later

1 *than 60 days after the Secretary makes a certification*
2 *described in subsection (a).*

3 (4) *CHAIR.*—*At the first meeting of the Commis-*
4 *sion, a majority of the members of the Commission*
5 *present and voting shall elect the Chair of the Com-*
6 *mission.*

7 (5) *VACANCIES.*—*Any vacancy of the Commis-*
8 *sion shall not affect its powers, but shall be filled in*
9 *the manner in which the original appointment was*
10 *made.*

11 (6) *RULES.*—*The Commission shall establish the*
12 *rules and procedures of the Commission which shall*
13 *require the approval of at least 6 members of the*
14 *Commission.*

15 (c) *DUTIES.*—*The Commission's primary responsi-*
16 *bility shall be to make recommendations to the President,*
17 *the Secretary, and Congress on policies to achieve and*
18 *maintain the border security goal specified in section 3(b)*
19 *by achieving and maintaining—*

20 (1) *the capability to engage in, and engaging in,*
21 *persistent surveillance in border sectors along the*
22 *Southern border; and*

23 (2) *an effectiveness rate of 90 percent or higher*
24 *in all border sectors along the Southern border.*

1 (d) *REPORT.*—Not later than 180 days after the end
2 of the 5-year period described in subsection (a), the Com-
3 mission shall submit to the President, the Secretary, and
4 Congress a report setting forth specific recommendations for
5 policies for achieving and maintaining the border security
6 goals specified in subsection (c). The report shall include,
7 at a minimum, recommendations for the personnel, infra-
8 structure, technology, and other resources required to
9 achieve and maintain an effectiveness rate of 90 percent
10 or higher in all border sectors.

11 (e) *TRAVEL EXPENSES.*—Members of the Commission
12 shall be allowed travel expenses, including per diem in lieu
13 of subsistence rates authorized for employees of agencies
14 under subchapter I of chapter 57 of title 5, United States
15 Code, while away from their homes or regular places of
16 business in the performance of services for the Commission.

17 (f) *ADMINISTRATIVE SUPPORT.*—The Secretary shall
18 provide the Commission such staff and administrative serv-
19 ices as may be necessary and appropriate for the Commis-
20 sion to perform its functions. Any employee of the executive
21 branch of Government may be detailed to the Commission
22 without reimbursement to the agency of that employee and
23 such detail shall be without interruption or loss of civil
24 service or status or privilege.

1 (g) *COMPTROLLER GENERAL REVIEW.*—The Com-
2 *troller General of the United States shall review the rec-*
3 *ommendations in the report submitted under subsection (d)*
4 *in order to determine—*

5 (1) *whether any of the recommendations are like-*
6 *ly to achieve effective control in all border sectors;*

7 (2) *which recommendations are most likely to*
8 *achieve effective control; and*

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

11 (h) *TERMINATION.*—The Commission shall terminate
12 *30 days after the date on which the report is submitted*
13 *under subsection (d).*

14 **SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY**
15 **STRATEGY AND SOUTHERN BORDER FENCING**
16 **STRATEGY.**

17 (a) *COMPREHENSIVE SOUTHERN BORDER SECURITY*
18 *STRATEGY.*—

19 (1) *IN GENERAL.*—Not later than 180 days after
20 *the date of the enactment of this Act, the Secretary*
21 *shall submit a strategy, to be known as the “Com-*
22 *prehensive Southern Border Security Strategy”, for*
23 *achieving and maintaining effective control between*
24 *the ports of entry in all border sectors along the*
25 *Southern border, to—*

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

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

5 (C) *the Committee on Appropriations of the*
6 *Senate;*

7 (D) *the Committee on Appropriations of the*
8 *House of Representatives;*

9 (E) *the Committee on the Judiciary of the*
10 *Senate;*

11 (F) *the Committee on the Judiciary of the*
12 *House of Representatives; and*

13 (G) *the Comptroller General of the United*
14 *States.*

15 (2) *ELEMENTS.—The Comprehensive Southern*
16 *Border Security Strategy shall specify—*

17 (A) *the priorities that must be met for the*
18 *strategy to be successfully executed;*

19 (B) *the capabilities that must be obtained to*
20 *meet each of the priorities referred to in sub-*
21 *paragraph (A), including—*

22 (i) *surveillance and detection capabili-*
23 *ties developed or used by the Department of*
24 *Defense to increase situational awareness;*
25 *and*

1 (ii) the requirement for stationing suf-
2 ficient Border Patrol agents and Customs
3 and Border Protection officers between and
4 at ports of entry along the Southern border;
5 and

6 (C) the resources, including personnel, in-
7 frastructure, and technology that must be pro-
8 cured and successfully deployed to obtain the ca-
9 pabilities referred to in subparagraph (B), in-
10 cluding—

11 (i) fixed, mobile, and agent portable
12 surveillance systems; and

13 (ii) unarmed, unmanned aerial sys-
14 tems and unarmed, fixed-wing aircraft and
15 necessary and qualified staff and equipment
16 to fully utilize such systems.

17 (3) *ADDITIONAL ELEMENTS REGARDING EXECU-*
18 *TION.—The Comprehensive Southern Border Security*
19 *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 the*
6 *interim goals referred to in subparagraph (B).*

7 (4) *IMPLEMENTATION.—*

8 (A) *IN GENERAL.—The Secretary shall com-*
9 *mence the implementation of the Comprehensive*
10 *Southern Border Security Strategy immediately*
11 *after submitting the strategy under paragraph*
12 *(1).*

13 (B) *NOTICE OF COMMENCEMENT.—Upon*
14 *commencing the implementation of the strategy,*
15 *the Secretary shall submit a notice of commence-*
16 *ment of such implementation to—*

17 (i) *Congress; and*

18 (ii) *the Comptroller General of the*
19 *United States.*

20 (5) *SEMIANNUAL REPORTS.—*

21 (A) *IN GENERAL.—Not later than 180 days*
22 *after the Comprehensive Southern Border Secu-*
23 *rity Strategy is submitted under paragraph (1),*
24 *and every 180 days thereafter, the Secretary*

1 *shall submit a report on the status of the Depart-*
2 *ment's implementation of the strategy to—*

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

6 *(ii) the Committee on Homeland Secu-*
7 *rity of the House of Representatives;*

8 *(iii) the Committee on Appropriations*
9 *of the Senate;*

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

12 *(v) the Committee on the Judiciary of*
13 *the Senate;*

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

16 *(vii) the Comptroller General of the*
17 *United States.*

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

20 *(i) a detailed description of the steps*
21 *the Department has taken, or plans to take,*
22 *to execute the strategy submitted under*
23 *paragraph (1), including the progress made*
24 *toward achieving the interim goals and*
25 *milestone schedule established pursuant to*

1 *subparagraphs (B) and (C) of paragraph*
2 *(3);*

3 *(ii) a detailed description of—*

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

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

10 *(III) any additional measures de-*
11 *veloped by the Department to measure*
12 *the state of security along the Southern*
13 *border; and*

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

16 *(I) the effectiveness rate for each*
17 *individual Border Patrol sector and*
18 *the aggregated effectiveness rate;*

19 *(II) the number of recidivist ap-*
20 *prehensions, sorted by Border Patrol*
21 *sector; and*

22 *(III) the recidivism rate for all*
23 *unique subjects that received a crimi-*
24 *nal consequence through the Con-*
25 *sequence Delivery System process.*

1 (C) *ANNUAL REVIEW.*—*The Comptroller*
2 *General of the United States shall conduct an*
3 *annual review of the information contained in*
4 *the semiannual reports submitted by the Sec-*
5 *retary under this paragraph and submit an as-*
6 *essment of the status and progress of the South-*
7 *ern Border Security Strategy to the committees*
8 *set forth in subparagraph (A).*

9 (b) *SOUTHERN BORDER FENCING STRATEGY.*—

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

17 (2) *SUBMISSION.*—*The Secretary shall submit*
18 *the Southern Border Fencing Strategy to Congress*
19 *and the Comptroller General of the United States for*
20 *review.*

21 (3) *NOTICE OF COMMENCEMENT.*—*Upon com-*
22 *mencing the implementation of the Southern Border*
23 *Fencing Strategy, the Secretary shall submit a notice*
24 *of commencement of the implementation of the Strat-*

1 *egy to Congress and the Comptroller General of the*
2 *United States.*

3 (4) *CONSULTATION.*—

4 (A) *IN GENERAL.*—*In implementing the*
5 *Southern Border Fencing Strategy required by*
6 *this subsection, the Secretary shall consult with*
7 *the Secretary of the Interior, the Secretary of Ag-*
8 *riculture, States, local governments, Indian*
9 *tribes, and property owners in the United States*
10 *to minimize the impact on the environment, cul-*
11 *ture, commerce, and quality of life for the com-*
12 *munities and residents located near the sites at*
13 *which such fencing is to be constructed.*

14 (B) *SAVINGS PROVISION.*—*Nothing in this*
15 *paragraph may be construed to—*

16 (i) *create or negate any right of action*
17 *for a State or local government or other per-*
18 *son or entity affected by this subsection; or*

19 (ii) *affect the eminent domain laws of*
20 *the United States or of any State.*

21 (5) *LIMITATION ON REQUIREMENTS.*—*Notwith-*
22 *standing paragraph (1), nothing in this subsection*
23 *shall require the Secretary to install fencing, or infra-*
24 *structure that directly results from the installation of*
25 *such fencing, in a particular location along the*

1 *Southern border, if the Secretary determines that the*
2 *use or placement of such resources is not the most ap-*
3 *propriate means to achieve and maintain effective*
4 *control over the Southern border at such location.*

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

6 *(a) COMPREHENSIVE IMMIGRATION REFORM TRUST*
7 *FUND.—*

8 *(1) ESTABLISHMENT.—There is established in*
9 *the Treasury a separate account, to be known as the*
10 *Comprehensive Immigration Reform Trust Fund (re-*
11 *ferred to in this section as the “Trust Fund”), con-*
12 *sisting of—*

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

16 *(B) proceeds from the fees described in*
17 *paragraph (2)(B).*

18 *(2) DEPOSITS.—*

19 *(A) INITIAL FUNDING.—On the later of the*
20 *date of the enactment of this Act or October 1,*
21 *2013, \$8,300,000,000 shall be transferred from*
22 *the general fund of the Treasury to the Trust*
23 *Fund.*

24 *(B) ONGOING FUNDING.—Notwithstanding*
25 *section 3302 of title 31, United States Code, in*

1 *addition to the funding described in subpara-*
2 *graph (A), and subject to paragraphs (3)(B) and*
3 *(4), the following amounts shall be deposited in*
4 *the Trust Fund:*

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

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

15 *(iii) BLUE CARD PENALTY.—Penalties*
16 *collected under section 2211(b)(9)(C).*

17 *(iv) FINE FOR ADJUSTMENT FROM*
18 *BLUE CARD STATUS.—Fines collected under*
19 *section 245F(a)(5) of the Immigration and*
20 *Nationality Act, as added by section*
21 *2212(a).*

22 *(v) PENALTIES FOR FALSE STATE-*
23 *MENTS IN APPLICATIONS.—Fines collected*
24 *under section 245F(f) of the Immigration*

1 *and Nationality Act, as added by section*
2 *2212(a).*

3 *(vi) MERIT SYSTEM GREEN CARD*
4 *FEES.—Fees collected under section*
5 *203(c)(6) of the Immigration and Nation-*
6 *ality Act, as amended by section 2301(a)(2).*

7 *(vii) H-1B AND L VISA FEES.—Fees*
8 *collected under section 281(d) of the Immi-*
9 *gration and Nationality Act, as added by*
10 *section 4105.*

11 *(viii) H-1B OUTPLACEMENT FEE.—*
12 *Fees collected under section 212(n)(1)(F)(ii)*
13 *of the Immigration and Nationality Act, as*
14 *amended by section 4211(d).*

15 *(ix) H-1B NONIMMIGRANT DEPENDENT*
16 *EMPLOYER FEES.—Fees collected under sec-*
17 *tion 4233(a)(2).*

18 *(x) L NONIMMIGRANT DEPENDENT EM-*
19 *PLOYER FEES.—Fees collected under section*
20 *4305(a)(2).*

21 *(xi) J-1 VISA MITIGATION FEES.—Fees*
22 *collected under section 281(e) of the Immi-*
23 *gration and Nationality Act, as added by*
24 *section 4407.*

1 (xii) *F-1 VISA FEES.*—Fees collected
2 under section 281(f) of the Immigration and
3 Nationality Act, as added by section 4408.

4 (xiii) *RETIREE VISA FEES.*—Fees col-
5 lected under section 214(w)(1)(B) of the Im-
6 migration and Nationality Act, as added by
7 section 4504(b).

8 (xiv) *VISITOR VISA FEES.*—Fees col-
9 lected under section 281(g) of the Immigra-
10 tion and Nationality Act, as added by sec-
11 tion 4509.

12 (xv) *H-2B VISA FEES.*—Fees collected
13 under section 214(x)(5)(A) of the Immigra-
14 tion and Nationality Act, as added by sec-
15 tion 4602(a).

16 (xvi) *NONIMMIGRANTS PERFORMING*
17 *MAINTENANCE ON COMMON CARRIERS.*—Fees
18 collected under section 214(z) of the Immi-
19 gration and Nationality Act, as added by
20 section 4604.

21 (xvii) *X-1 VISA FEES.*—Fees collected
22 under section 214(s)(6) of the Immigration
23 and Nationality Act, as added by section
24 4801.

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

7 *(C) AUTHORITY TO ADJUST FEES.—As nec-*
8 *essary to carry out the purposes of this Act, the*
9 *Secretary may adjust the amounts of the fees*
10 *and penalties set out under subparagraph (B),*
11 *except for the fines and penalties referred to in*
12 *clauses (ii), (iii), (iv), or (xviii) of such subpara-*
13 *graph.*

14 *(3) USE OF FUNDS.—*

15 *(A) INITIAL FUNDING.—Of the amounts*
16 *transferred to the Trust Fund pursuant to para-*
17 *graph (2)(A)—*

18 *(i) \$3,000,000,000 shall remain avail-*
19 *able for the 5-year period beginning on the*
20 *date specified in paragraph (2)(A) for use*
21 *by the Secretary to carry out the Com-*
22 *prehensive Southern Border Security Strat-*
23 *egy;*

24 *(ii) \$2,000,000,000 shall remain avail-*
25 *able for the 10-year period beginning on the*

1 *date specified in paragraph (2)(A) for use*
2 *by the Secretary to carry out programs,*
3 *projects, and activities recommended by the*
4 *Commission pursuant to section 4(d) to*
5 *achieve and maintain the border security*
6 *goal specified in section 3(b);*

7 *(iii) \$1,500,000,000 shall be made*
8 *available to the Secretary, during the 5-year*
9 *period beginning on the date of the enact-*
10 *ment of this Act, to procure and deploy*
11 *fencing, infrastructure, and technology in*
12 *accordance with the Southern Border Fenc-*
13 *ing Strategy established pursuant to section*
14 *5(b), not less than \$1,000,000,000 of which*
15 *shall be used to deploy, repair, or replace*
16 *fencing;*

17 *(iv) \$750,000,000 shall remain avail-*
18 *able for the 6-year period beginning on the*
19 *date specified in paragraph (2)(A) for use*
20 *by the Secretary to expand and implement*
21 *the mandatory employment verification sys-*
22 *tem, which shall be used as required by sec-*
23 *tion 274A of the Immigration and Nation-*
24 *ality Act (8 U.S.C. 1324a), as amended by*
25 *section 3101;*

1 (v) \$900,000,000 shall remain avail-
2 able for the 8-year period beginning on the
3 date specified in paragraph (2)(A) for use
4 by the Secretary of State to pay for one-
5 time and startup costs necessary to imple-
6 ment this Act; and

7 (vi) \$150,000,000 shall remain avail-
8 able for the 2-year period beginning on the
9 date specified in paragraph (2)(A) for use
10 by the Secretary for transfer to the Sec-
11 retary of Labor, the Secretary of Agri-
12 culture, or the Attorney General, for initial
13 costs of implementing this Act.

14 (B) *REPAYMENT OF TRUST FUND EX-*
15 *PENSES.*—The first \$8,300,000,000 collected pur-
16 suant to the fees, penalties, and fines referred to
17 in clauses (ii), (iii), (iv), (vi), (xiii), (xvii), and
18 (xviii) of paragraph (2)(B) shall be collected, de-
19 posited in the general fund of the Treasury, and
20 used for Federal budget deficit reduction. Collec-
21 tions in excess of \$8,300,000,000 shall be depos-
22 ited into the Trust Fund, as specified in para-
23 graph (2)(B).

24 (C) *PROGRAM IMPLEMENTATION.*—Amounts
25 deposited into the Trust Fund pursuant to para-

1 *graph (2)(B) shall be available during each of*
2 *fiscal years 2014 through 2018 as follows:*

3 *(i) \$50,000,000 to carry out the activi-*
4 *ties referenced in section 1104(a)(1).*

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

7 *(D) ONGOING FUNDING.—Subject to the*
8 *availability of appropriations, amounts depos-*
9 *ited in the Trust Fund pursuant to paragraph*
10 *(2)(B) are authorized to be appropriated as fol-*
11 *lows:*

12 *(i) Such sums as may be necessary to*
13 *carry out the authorizations included in*
14 *this Act.*

15 *(ii) Such sums as may be necessary to*
16 *carry out the operations and maintenance*
17 *of border security and immigration enforce-*
18 *ment investments referenced in subpara-*
19 *graph (A).*

20 *(E) EXPENDITURE PLAN.—The Secretary,*
21 *in consultation with the Attorney General and*
22 *the Secretary of Defense, shall submit to the*
23 *Committee on Appropriations of the Senate, the*
24 *Committee on the Judiciary of the Senate, the*
25 *Committee on Appropriations of the House of*

1 *Representatives, and the Committee on the Judi-*
2 *ciary of the House of Representatives, in con-*
3 *junction with the Comprehensive Southern Bor-*
4 *der Strategy and the Southern Border Fencing*
5 *Strategy, a plan for expenditure that describes—*

6 *(i) the types and planned deployment*
7 *of fixed, mobile, video, and agent and officer*
8 *portable surveillance and detection equip-*
9 *ment, including those recommended or pro-*
10 *vided by the Department of Defense;*

11 *(ii) the number of Border Patrol*
12 *agents and Customs and Border Protection*
13 *officers to be hired, including a detailed de-*
14 *scription of which Border Patrol sectors and*
15 *which land border ports of entry they will*
16 *be stationed;*

17 *(iii) the numbers and type of unarmed,*
18 *unmanned aerial systems and unarmed,*
19 *fixed-wing and rotary aircraft, including*
20 *pilots, air interdiction agents, and support*
21 *staff to fly or otherwise operate and main-*
22 *tain the equipment;*

23 *(iv) the numbers, types, and planned*
24 *deployment of marine and riverine vessels,*
25 *if any, including marine interdiction*

1 *agents and support staff to operate and*
2 *maintain the vessels;*

3 *(v) the locations, amount, and planned*
4 *deployment of fencing, including double*
5 *layer fencing, tactical and other infrastruc-*
6 *ture, and technology, including but not lim-*
7 *ited to fixed towers, sensors, cameras, and*
8 *other detection technology;*

9 *(vi) the numbers, types, and planned*
10 *deployment of ground-based mobile surveil-*
11 *lance systems;*

12 *(vii) the numbers, types, and planned*
13 *deployment of tactical and other interoper-*
14 *able law enforcement communications sys-*
15 *tems and equipment;*

16 *(viii) required construction, including*
17 *repairs, expansion, and maintenance, and*
18 *location of additional checkpoints, Border*
19 *Patrol stations, and forward operating*
20 *bases;*

21 *(ix) the number of additional attorneys*
22 *and support staff for the Office of the*
23 *United States Attorney for Tucson;*

1 (x) *the number of additional support*
2 *staff and interpreters in the Office of the*
3 *Clerk of the Court for Tucson;*

4 (xi) *the number of additional per-*
5 *sonnel, including Marshals and Deputy*
6 *Marshals for the United States Marshals Of-*
7 *fice for Tucson;*

8 (xii) *the number of additional mag-*
9 *istrate judges for the southern border United*
10 *States District Courts;*

11 (xiii) *activities to be funded by the*
12 *Homeland Security Border Oversight Task*
13 *Force;*

14 (xiv) *amounts and types of grants to*
15 *States and other entities;*

16 (xv) *amounts and activities necessary*
17 *to hire additional personnel and for start-*
18 *up costs related to upgrading software and*
19 *information technology necessary to transi-*
20 *tion from a voluntary E-Verify system to*
21 *mandatory employment verification system*
22 *under section 274A of the Immigration and*
23 *Nationality Act (8 U.S.C. 1324a) within 5*
24 *years;*

1 *(xvi) the number of additional per-*
2 *sonnel and other costs associated with im-*
3 *plementing the immigration courts and re-*
4 *moval proceedings mandated in subtitle E*
5 *of title III;*

6 *(xvii) the steps the Commissioner of*
7 *Social Security plans to take to create a*
8 *fraud-resistant, tamper-resistant, wear-re-*
9 *sistant, and identity-theft resistant Social*
10 *Security card, including—*

11 *(I) the types of equipment needed*
12 *to create the card;*

13 *(II) the total estimated costs for*
14 *completion that clearly delineates costs*
15 *associated with the acquisition of*
16 *equipment and transition to operation,*
17 *subdivided by fiscal year and includ-*
18 *ing a description of the purpose by fis-*
19 *cal year for design, pre-acquisition ac-*
20 *tivities, production, and transition to*
21 *operation;*

22 *(III) the number and type of per-*
23 *sonnel, including contract personnel,*
24 *required to research, design, test, and*
25 *produce the card; and*

1 (IV) a detailed schedule for pro-
2 duction of the card, including an esti-
3 mated completion date at the projected
4 funding level provided in this Act; and
5 (xviii) the operations and maintenance
6 costs associated with the implementation of
7 clauses (i) through (xvii).

8 (F) ANNUAL REVISION.—The expenditure
9 plan required in (E) shall be revised and sub-
10 mitted with the President’s budget proposals for
11 fiscal year 2016, 2017, 2018, and 2019 pursuant
12 to the requirements of section 1105(a) of title 31,
13 United States Code.

14 (G) COMMISSION EXPENDITURE PLAN.—

15 (i) REQUIREMENT FOR PLAN.—If the
16 Southern Border Security Commission ref-
17 erenced in section 4 is established, the Sec-
18 retary shall submit to the appropriate com-
19 mittees of Congress, not later than 60 days
20 after the submission of the review required
21 by section 4(g), a plan for expenditure that
22 achieves the recommendations in the report
23 required by section 4(d) and the review re-
24 quired by section 4(g).

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

5 (I) *the Committee on Appropria-*
6 *tions, the Committee on the Judiciary,*
7 *and the Committee on Finance of the*
8 *Senate; and*

9 (II) *the Committee on Appropria-*
10 *tions, the Committee on the Judiciary,*
11 *and the Committee on Ways and*
12 *Means of the House of Representatives.*

13 (4) *LIMITATION ON COLLECTION.*—

14 (A) *IN GENERAL.*—*No fee deposited in the*
15 *Trust Fund may be collected except to the extent*
16 *that the expenditure of the fee is provided for in*
17 *advance in an appropriations Act only to pay*
18 *the costs of activities and services for which ap-*
19 *propriations are authorized to be funded from*
20 *the Trust Fund.*

21 (B) *RECEIPTS COLLECTED AS OFFSETTING*
22 *RECEIPTS.*—*Until the date of the enactment of*
23 *an Act making appropriations for the activities*
24 *authorized under this Act through September 30,*
25 *2014, the fees authorized by paragraph (2)(B)*

1 *that are not deposited into the general fund pur-*
2 *suant to paragraph (3)(B) may be collected and*
3 *shall be credited as to the Trust Fund to remain*
4 *available until expended only to pay the costs of*
5 *activities and services for which appropriations*
6 *are authorized to be funded from the Trust*
7 *Fund.*

8 ***(b) COMPREHENSIVE IMMIGRATION REFORM STARTUP***
9 ***ACCOUNT.—***

10 ***(1) ESTABLISHMENT.—****There is established in*
11 *the Treasury a separate account, to be known as the*
12 *“Comprehensive Immigration Reform Startup Ac-*
13 *count,” (referred to in this section as the “Startup*
14 *Account”), consisting of amounts transferred from the*
15 *general fund of the Treasury under paragraph (2).*

16 ***(2) DEPOSITS.—****There is appropriated to the*
17 *Startup Account, out of any funds in the Treasury*
18 *not otherwise appropriated, \$3,000,000,000, to re-*
19 *main available until expended on the later of the date*
20 *that is—*

21 ***(A) the date of the enactment of this Act; or***

22 ***(B) October 1, 2013.***

23 ***(3) REPAYMENT OF STARTUP COSTS.—***

24 ***(A) IN GENERAL.—****Notwithstanding section*
25 *286(m) of the Immigration and Nationality Act*

1 (8 U.S.C. 1356(m)), 50 percent of fees collected
2 under section 245B(c)(10)(A) of the Immigration
3 and Nationality Act, as added by section 2101 of
4 this Act, shall be deposited monthly in the gen-
5 eral fund of the Treasury and used for Federal
6 budget deficit reduction until the funding pro-
7 vided by paragraph (2) has been repaid.

8 (B) DEPOSIT IN THE IMMIGRATION EXAMI-
9 NATIONS FEE ACCOUNT.—Fees collected in excess
10 of the amount referenced in subparagraph (A)
11 shall be deposited in the Immigration Examina-
12 tions Fee Account, pursuant to section 286(m) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1356(m)), and shall remain available until ex-
15 pended pursuant to section 286(n) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1356(n)).

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

21 (A) equipment, information technology sys-
22 tems, infrastructure, and human resources;

23 (B) outreach to the public, including devel-
24 opment and promulgation of any regulations,
25 rules, or other public notice;

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

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

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

15 (A) the types of equipment, information
16 technology systems, infrastructure, and human
17 resources;

18 (B) the plans for outreach to the public, in-
19 cluding development and promulgation of any
20 regulations, rules, or other public notice;

21 (C) the types and amounts of grants to com-
22 munity and faith-based organizations; and

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

25 (c) *ANNUAL AUDITS*.—

1 (1) *AUDITS REQUIRED.*—Not later than October
2 1 each year beginning on or after the date of the en-
3 actment of this Act, the Chief Financial Officer of the
4 Department of Homeland Security shall, in conjunc-
5 tion with the Inspector General of the Department of
6 Homeland Security, conduct an audit of the Trust
7 Fund.

8 (2) *REPORTS.*—Upon completion of each audit of
9 the Trust Fund under paragraph (1), the Chief Fi-
10 nancial Officer shall, in conjunction with the Inspec-
11 tor General, submit to Congress, and make available
12 to the public on an Internet website of the Depart-
13 ment available to the public, a jointly audited finan-
14 cial statement concerning the Trust Fund.

15 (3) *ELEMENTS.*—Each audited financial state-
16 ment under paragraph (2) shall include the following:

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

19 (B) *A balance sheet reporting admitted as-*
20 *sets, liabilities, capital and surplus.*

21 (C) *A statement of cash flow.*

22 (D) *Such other information on the Trust*
23 *Fund as the Chief Financial Officer, the Inspec-*
24 *tor General, or the independent certified public*
25 *accountant considers appropriate to facilitate a*

1 *comprehensive understanding of the Trust Fund*
2 *during the year covered by the financial state-*
3 *ment.*

4 *(d) DETERMINATION OF BUDGETARY EFFECTS.—*

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

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

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

20 *Except as otherwise expressly provided, whenever in*
21 *this Act an amendment or repeal is expressed in terms of*
22 *an amendment to, or repeal of, a section or other provision,*
23 *the reference shall be considered to be made to a section or*
24 *other provision of the Immigration and Nationality Act (8*
25 *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 Department*
5 *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 Citizenship*
15 *and New Americans, as designated by this Act, and*
16 *the Director of the National Science Foundation.*

17 (2) *NONPROFIT ORGANIZATION.*—*The term “non-*
18 *profit organization” means an organization that is*
19 *described in section 501(c)(3) of the Internal Revenue*
20 *Code of 1986 and is exempt from taxation under sec-*
21 *tion 501(a) of such Code.*

22 (3) *UNRESOLVED AUDIT FINDING.*—*The term*
23 *“unresolved audit finding” means a finding in a*
24 *final audit report conducted by the Inspector General*
25 *of the Department of Homeland Security, or the In-*
26 *spector General for the National Science Foundation*

1 *for grants awarded by the Director of the National*
2 *Science Foundation, that the audited grantee has uti-*
3 *lized grant funds for an unauthorized expenditure or*
4 *otherwise unallowable cost that is not closed or re-*
5 *solved within 1 year from the date when the final*
6 *audit report is issued.*

7 *(b) ACCOUNTABILITY.—All grants awarded by award-*
8 *ing entities pursuant to this Act shall be subject to the fol-*
9 *lowing accountability provisions:*

10 *(1) AUDIT REQUIREMENT.—*

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

23 *(B) MANDATORY EXCLUSION.—A recipient*
24 *of grant funds under this Act that is found to*
25 *have an unresolved audit finding shall not be eli-*

1 gible to receive grant funds under this Act dur-
2 ing the first 2 fiscal years beginning after the
3 end of the 1-year period described in subsection
4 (a)(3).

5 (C) *PRIORITY.*—In awarding grants under
6 this Act, the awarding entities shall give priority
7 to eligible applicants that did not have an unre-
8 solved audit finding during the 3 fiscal years be-
9 fore submitting an application for a grant under
10 this Act.

11 (D) *REIMBURSEMENT.*—If an entity is
12 awarded grant funds under this Act during the
13 2-fiscal-year period during which the entity is
14 barred from receiving grants under subpara-
15 graph (B), the awarding entity shall—

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

20 (ii) seek to recoup the costs of the re-
21 payment to the fund from the grant recipi-
22 ent that was erroneously awarded grant
23 funds.

24 (2) *NONPROFIT ORGANIZATION REQUIRE-*
25 *MENTS.*—

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

7 (B) *DISCLOSURE.*—Each nonprofit organi-
8 zation that is awarded a grant under this Act
9 and uses the procedures prescribed in regulations
10 to create a rebuttable presumption of reasonable-
11 ness for the compensation of its officers, direc-
12 tors, trustees, and key employees, shall disclose to
13 the awarding entity, in the application for the
14 grant, the process for determining such com-
15 pensation, including the independent persons in-
16 volved in reviewing and approving such com-
17 pensation, the comparability data used, and con-
18 temporaneous substantiation of the deliberation
19 and decision. Upon request, the awarding entity
20 shall make the information disclosed under this
21 subparagraph available for public inspection.

22 (3) *CONFERENCE EXPENDITURES.*—

23 (A) *LIMITATION.*—No amounts authorized
24 to be appropriated to the Department of Home-
25 land Security or the National Science Founda-

1 *tion for grant programs under this Act may be*
2 *used by an awarding entity or by any indi-*
3 *vidual or entity awarded discretionary funds*
4 *through a cooperative agreement under this Act*
5 *to host or support any expenditure for con-*
6 *ferences that uses more than \$20,000 in funds*
7 *made available by the Department of Homeland*
8 *Security or the National Science Foundation un-*
9 *less the Deputy Secretary for Homeland Secu-*
10 *rity, or the Deputy Director of the National*
11 *Science Foundation, or their designee, provides*
12 *prior written authorization that the funds may*
13 *be expended to host the conference.*

14 (B) *WRITTEN APPROVAL.*—Written ap-
15 *proval under subparagraph (A) shall include a*
16 *written estimate of all costs associated with the*
17 *conference, including the cost of all food, bev-*
18 *erages, audio-visual equipment, honoraria for*
19 *speakers, and entertainment.*

20 (C) *REPORT.*—The Deputy Secretary of
21 *Homeland Security and the Deputy Director of*
22 *the National Science Foundation shall submit an*
23 *annual report to Congress on all conference ex-*
24 *penditures approved under this paragraph.*

1 (4) *ANNUAL CERTIFICATION.*—*Beginning in the*
2 *first fiscal year beginning after the date of the enact-*
3 *ment of this subsection, each awarding entity shall*
4 *submit to Congress a report—*

5 (A) *indicating whether—*

6 (i) *all audits issued by the Offices of*
7 *the Inspector General under paragraph (1)*
8 *have been completed and reviewed by the*
9 *appropriate individuals;*

10 (ii) *all mandatory exclusions required*
11 *under paragraph (1)(B) have been issued;*
12 *and*

13 (iii) *all reimbursements required under*
14 *paragraph (1)(D) have been made; and*

15 (B) *including a list of any grant recipients*
16 *excluded under paragraph (1) from the previous*
17 *year.*

18 **TITLE I—BORDER SECURITY**

19 **SEC. 1101. DEFINITIONS.**

20 *In this title:*

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

24 (2) *RURAL, HIGH-TRAFFICKED AREAS.*—*The*
25 *term “rural, high-trafficked areas” means rural areas*

1 *through which drugs and undocumented aliens are*
2 *routinely smuggled, as designated by the Commis-*
3 *sioner of U.S. Customs and Border Protection.*

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

7 (4) *SOUTHWEST BORDER REGION.*—*The term*
8 *“Southwest border region” means the area in the*
9 *United States that is within 100 miles of the South-*
10 *ern border.*

11 **SEC. 1102. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
12 **TECTION OFFICERS.**

13 (a) *IN GENERAL.*—*Not later than September 30, 2017,*
14 *the Secretary shall increase the number of trained U.S. Cus-*
15 *toms and Border Protection officers by 3,500, compared to*
16 *the number of such officers as of the date of the enactment*
17 *of this Act. The Secretary shall make progress in increasing*
18 *such number of officers during each of the fiscal years 2014*
19 *through 2017.*

20 (b) *CONSTRUCTION.*—*Nothing in subsection (a) may*
21 *be construed to preclude the Secretary from reassigning or*
22 *stationing U.S. Customs and Border Protection Officers*
23 *and U.S. Border Patrol Agents from the Northern border*
24 *to the Southern border.*

1 (c) *FUNDING.—Section 217(h)(3)(B) (8 U.S.C.*
2 *1187(h)(3)(B)) is amended—*

3 (1) *in clause (i)—*

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

7 (B) *in subclause (I), by striking “and” at*
8 *the end;*

9 (C) *by redesignating subclause (II) as sub-*
10 *clause (III); and*

11 (D) *by inserting after subclause (I) the fol-*
12 *lowing:*

13 *“(II) \$16 for border processing;*
14 *and”;*

15 (2) *in clause (ii), by striking “Amounts collected*
16 *under clause (i)(II)” and inserting “Amounts col-*
17 *lected under clause (i)(II) shall be deposited into the*
18 *Comprehensive Immigration Reform Trust Fund es-*
19 *tablished under section 6(a)(1) of the Border Security,*
20 *Economic Opportunity, and Immigration Moderniza-*
21 *tion Act. Amounts collected under clause (i)(III)”;*
22 *and*

23 (3) *by striking clause (iii).*

24 (d) *CORPORATION FOR TRAVEL PROMOTION.—Section*
25 *9(d)(2)(B) of the Travel Promotion Act of 2009 (22 U.S.C.*

1 2131(d)(2)(B)) is amended by striking “For each of fiscal
2 years 2012 through 2015,” and inserting “For each fiscal
3 year after 2012,”.

4 **SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE**
5 **SOUTHERN BORDER.**

6 (a) *IN GENERAL.*—With the approval of the Secretary
7 of Defense, the Governor of a State may order any unit
8 or personnel of the National Guard of such State to perform
9 operations and missions under section 502(f) of title 32,
10 United States Code, in the Southwest Border region for the
11 purposes of assisting U.S. Customs and Border Protection
12 in securing the Southern border.

13 (b) *ASSIGNMENT OF OPERATIONS AND MISSIONS.*—

14 (1) *IN GENERAL.*—National Guard units and
15 personnel deployed under subsection (a) may be as-
16 signed such operations and missions specified in sub-
17 section (c) as may be necessary to secure the Southern
18 border.

19 (2) *NATURE OF DUTY.*—The duty of National
20 Guard personnel performing operations and missions
21 described in paragraph (1) shall be full-time duty
22 under title 32, United States Code.

23 (c) *RANGE OF OPERATIONS AND MISSIONS.*—The oper-
24 ations and missions assigned under subsection (b) shall in-
25 clude the temporary authority—

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

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

5 (3) to deploy additional unmanned aerial sys-
6 tems and manned aircraft sufficient to maintain con-
7 tinuous surveillance of the Southern border;

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

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

15 (6) to provide assistance to U.S. Customs and
16 Border Protection, particularly in rural, high-traf-
17 ficked areas, as designated by the Commissioner of
18 U.S. Customs and Border Protection.

19 (d) *MATERIEL AND LOGISTICAL SUPPORT.*—The Sec-
20 retary of Defense shall deploy such materiel and equipment
21 and logistical support as may be necessary to ensure success
22 of the operations and missions conducted by the National
23 Guard under this section.

1 (e) *EXCLUSION FROM NATIONAL GUARD PERSONNEL*
2 *STRENGTH LIMITATIONS.*—*National Guard personnel de-*
3 *ployed under subsection (a) shall not be included in—*

4 (1) *the calculation to determine compliance with*
5 *limits on end strength for National Guard personnel;*
6 *or*

7 (2) *limits on the number of National Guard per-*
8 *sonnel that may be placed on active duty for oper-*
9 *ational support under section 115 of title 10, United*
10 *States Code.*

11 **SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY**
12 **OPERATIONS.**

13 (a) *BORDER CROSSING PROSECUTIONS.*—

14 (1) *IN GENERAL.*—*From the amounts made*
15 *available pursuant to the appropriations in para-*
16 *graph (3), funds shall be made available—*

17 (A) *to increase the number of border cross-*
18 *ing prosecutions in the Tucson Sector of the*
19 *Southwest border region to up to 210 prosecu-*
20 *tions per day through increasing funding avail-*
21 *able for—*

22 (i) *attorneys and administrative sup-*
23 *port staff in the Office of the United States*
24 *Attorney for Tucson;*

1 (ii) support staff and interpreters in
2 the Office of the Clerk of the Court for Tuc-
3 son;

4 (iii) pre-trial services;

5 (iv) activities of the Federal Public De-
6 fender Office for Tucson; and

7 (v) additional personnel, including
8 Deputy United States Marshals in the
9 United States Marshals Office for Tucson to
10 perform intake, coordination, transpor-
11 tation, and court security; and

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

16 (2) *ADDITIONAL MAGISTRATE JUDGES TO ASSIST*
17 *WITH INCREASED CASELOAD.*—The chief judge of the
18 United States District Court for the District of Ari-
19 zona is authorized to appoint additional full-time
20 magistrate judges, who, consistent with the Constitu-
21 tion and laws of the United States, shall have the au-
22 thority to hear cases and controversies in the judicial
23 district in which the respective judges are appointed.

24 (3) *FUNDING.*—There are authorized to be ap-
25 propriated, from the Comprehensive Immigration Re-

1 *form Trust Fund established under section 6(a)(1),*
2 *such sums as may be necessary to carry out this sub-*
3 *section.*

4 *(b) OPERATION STONEGARDEN.—*

5 *(1) IN GENERAL.—The Federal Emergency Man-*
6 *agement Agency shall enhance law enforcement pre-*
7 *paredness and operational readiness along the borders*
8 *of the United States through Operation Stonegarden.*
9 *The amounts available under this paragraph are in*
10 *addition to any other amounts otherwise made avail-*
11 *able for Operation Stonegarden. Not less than 90 per-*
12 *cent of the amounts made available under section*
13 *6(a)(3)(C)(ii) shall be allocated for grants and reim-*
14 *bursments to law enforcement agencies in the States*
15 *in the Southwest border region for personnel, over-*
16 *time, travel, and other costs related to combating ille-*
17 *gal immigration and drug smuggling in the South-*
18 *west border region. Allocations for grants and reim-*
19 *bursments to law enforcement agencies under this*
20 *paragraph shall be made by the Federal Emergency*
21 *Management Agency through a competitive process.*

22 *(2) FUNDING.—There are authorized to be ap-*
23 *propriated, from the amounts made available under*
24 *section 6(a)(3)(A)(i), such sums as may be necessary*
25 *to carry out this subsection.*

1 (c) *INFRASTRUCTURE IMPROVEMENTS.*—

2 (1) *BORDER PATROL STATIONS.*—*The Secretary*
3 *shall—*

4 (A) *construct additional Border Patrol sta-*
5 *tions in the Southwest border region that U.S.*
6 *Border Patrol determines are needed to provide*
7 *full operational support in rural, high-trafficked*
8 *areas; and*

9 (B) *analyze the feasibility of creating addi-*
10 *tional Border Patrol sectors along the Southern*
11 *border to interrupt drug trafficking operations.*

12 (2) *FORWARD OPERATING BASES.*—*The Sec-*
13 *retary shall enhance the security of the Southwest bor-*
14 *der region by—*

15 (A) *establishing additional permanent for-*
16 *ward operating bases for the U.S. Border Patrol,*
17 *as needed;*

18 (B) *upgrading the existing forward oper-*
19 *ating bases to include modular buildings, elec-*
20 *tricity, and potable water; and*

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

1 (C) 2 additional district judges for the west-
2 ern district of Texas; and

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

5 (2) CONVERSIONS OF TEMPORARY DISTRICT
6 COURT JUDGESHIPS.—The existing judgeships for the
7 district of Arizona and the central district of Cali-
8 fornia authorized by section 312(c) of the 21st Cen-
9 tury Department of Justice Appropriations Author-
10 ization Act (28 U.S.C. 133 note; Public Law 107-
11 273; 116 Stat. 1788), as of the effective date of this
12 Act, shall be authorized under section 133 of title 28,
13 United States Code, and the incumbents in those of-
14 fices shall hold the office under section 133 of title 28,
15 United States Code, as amended by this Act.

16 (3) TECHNICAL AND CONFORMING AMEND-
17 MENTS.—The table contained in section 133(a) of title
18 28, United States Code, is amended—

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

“Arizona 15”;

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

“California:
Northern 14
Eastern 9
Central 28
Southern 13”; and

1 (C) by striking the item relating to Texas
2 and inserting the following:

<i>“Texas:</i>	
<i>Northern</i>	12
<i>Southern</i>	20
<i>Eastern</i>	7
<i>Western</i>	15”.

3 (4) *INCREASE IN FILING FEES.*—

4 (A) *IN GENERAL.*—Section 1914(a) of title
5 28, United States Code, is amended by striking
6 “\$350” and inserting “\$360”.

7 (B) *EXPENDITURE LIMITATION.*—Incre-
8 mental amounts collected by reason of the enact-
9 ment of this paragraph shall be deposited as off-
10 setting receipts in the “Judiciary Filing Fee”
11 special fund of the Treasury established under
12 section 1931 of title 28, United States Code.
13 Such amounts shall be available solely for the
14 purpose of facilitating the processing of civil
15 cases, but only to the extent specifically appro-
16 priated by an Act of Congress enacted after the
17 date of the enactment of this Act.

18 (5) *WHISTLEBLOWER PROTECTION.*—

19 (A) *IN GENERAL.*—No officer, employee,
20 agent, contractor, or subcontractor of the judicial
21 branch may discharge, demote, threaten, sus-
22 pend, harass, or in any other manner discrimi-
23 nate against an employee in the terms and con-

1 *ditions of employment because of any lawful act*
2 *done by the employee to provide information,*
3 *cause information to be provided, or otherwise*
4 *assist in an investigation regarding any possible*
5 *violation of Federal law or regulation, or mis-*
6 *conduct, by a judge, justice, or any other em-*
7 *ployee in the judicial branch, which may assist*
8 *in the investigation of the possible violation or*
9 *misconduct.*

10 *(B) CIVIL ACTION.—An employee injured by*
11 *a violation of subparagraph (A) may, in a civil*
12 *action, obtain appropriate relief.*

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

14 *(a) DEFINITIONS.—In this section:*

15 *(1) FEDERAL LANDS.—The term “Federal lands”*
16 *includes all land under the control of the Secretary*
17 *concerned that is located within the Southwest border*
18 *region in the State of Arizona along the international*
19 *border between the United States and Mexico.*

20 *(2) SECRETARY CONCERNED.—The term “Sec-*
21 *retary concerned” means—*

22 *(A) with respect to land under the jurisdic-*
23 *tion of the Secretary of Agriculture, the Sec-*
24 *retary of Agriculture; and*

1 (B) with respect to land under the jurisdic-
2 tion of the Secretary of the Interior, the Sec-
3 retary of the Interior.

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

6 (1) *the Secretary concerned, notwithstanding*
7 *any other provision of law, shall authorize and pro-*
8 *vide U.S. Customs and Border Protection personnel*
9 *with immediate access to Federal lands for security*
10 *activities, including—*

11 (A) *routine motorized patrols; and*

12 (B) *the deployment of communications, sur-*
13 *veillance, and detection equipment;*

14 (2) *the security activities described in paragraph*
15 *(1) shall be conducted, to the maximum extent prac-*
16 *ticable, in a manner that the Secretary determines*
17 *will best protect the natural and cultural resources on*
18 *Federal lands; and*

19 (3) *the Secretary concerned may provide edu-*
20 *cation and training to U.S. Customs and Border Pro-*
21 *tection personnel on the natural and cultural re-*
22 *sources present on individual Federal land units.*

23 (c) *PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-*
24 *MENT.—*

1 (1) *IN GENERAL.*—After implementing subsection
2 (b), the Secretary, in consultation with the Secretaries
3 concerned, shall prepare and publish in the Federal
4 Register a notice of intent to prepare a programmatic
5 environmental impact statement in accordance with
6 the National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.) to analyze the impacts of the ac-
8 tivities described in subsection (b).

9 (2) *EFFECT ON PROCESSING APPLICATION AND*
10 *SPECIAL USE PERMITS.*—The pending completion of a
11 programmatic environmental impact statement under
12 this section shall not result in any delay in the proc-
13 essing or approving of applications or special use per-
14 mits by the Secretaries concerned for the activities de-
15 scribed in subsection (b).

16 (3) *AMENDMENT OF LAND USE PLANS.*—The Sec-
17 retaries concerned shall amend any land use plans, as
18 appropriate, upon completion of the programmatic
19 environmental impact statement described in sub-
20 section (b).

21 (4) *SCOPE OF PROGRAMMATIC ENVIRONMENTAL*
22 *IMPACT STATEMENT.*—The programmatic environ-
23 mental impact statement described in paragraph
24 (1)—

1 (A) may be used to advise the Secretary on
2 the impact on natural and cultural resources on
3 Federal lands; and

4 (B) shall not control, delay, or restrict ac-
5 tions by the Secretary to achieve effective control
6 on Federal lands.

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

10 **SEC. 1106. EQUIPMENT AND TECHNOLOGY.**

11 (a) *ENHANCEMENTS.*—The Commissioner of U.S. Cus-
12 toms and Border Protection, working through U.S. Border
13 Patrol, shall—

14 (1) deploy additional mobile, video, and agent-
15 portable surveillance systems, and unarmed, un-
16 manned aerial vehicles in the Southwest border region
17 as necessary to provide 24-hour operation and sur-
18 veillance;

19 (2) operate unarmed unmanned aerial vehicles
20 along the Southern border for 24 hours per day and
21 for 7 days per week;

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

24 (4) acquire new rotorcraft and make upgrades to
25 the existing helicopter fleet;

1 (5) *increase horse patrols in the Southwest bor-*
2 *der region; and*

3 (6) *acquire and deploy watercraft and other*
4 *equipment to provide support for border-related mari-*
5 *time anti-crime activities.*

6 **(b) LIMITATION.—**

7 (1) *IN GENERAL.—Notwithstanding paragraphs*
8 *(1) and (2) of subsection (a), and except as provided*
9 *in paragraph (2), U.S. Border Patrol may not oper-*
10 *ate unarmed, unmanned aerial vehicles in the San*
11 *Diego and El Centro Sectors, except within 3 miles*
12 *of the Southern border.*

13 (2) *EXCEPTION.—The limitation under this sub-*
14 *section shall not restrict the maritime operations of*
15 *U.S. Customs and Border Protection.*

16 **(c) AUTHORIZATION OF APPROPRIATIONS.—***In addi-*
17 *tion to amounts otherwise authorized to be appropriated,*
18 *there is authorized to be appropriated to U.S. Customs and*
19 *Border Protection such sums as may be necessary to carry*
20 *out subsection (a) during fiscal years 2014 through 2018.*

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

22 **(a) SOUTHWEST BORDER REGION EMERGENCY COM-**
23 **MUNICATIONS GRANTS.—**

24 (1) *IN GENERAL.—The Secretary, in consultation*
25 *with the governors of the States in the Southwest bor-*

1 *der region, shall establish a 2-year grant program, to*
2 *be administered by the Secretary, to improve emer-*
3 *gency communications in the Southwest border re-*
4 *gion.*

5 (2) *ELIGIBILITY FOR GRANTS.—An individual is*
6 *eligible to receive a grant under this subsection if the*
7 *individual demonstrates that he or she—*

8 (A) *regularly resides or works in the South-*
9 *west border region;*

10 (B) *is at greater risk of border violence due*
11 *to the lack of cellular service at his or her resi-*
12 *dence or business and his or her proximity to the*
13 *Southern border.*

14 (3) *USE OF GRANTS.—Grants awarded under*
15 *this subsection may be used to purchase satellite tele-*
16 *phone communications systems and service that—*

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

18 (B) *are equipped with global positioning*
19 *systems.*

20 (4) *AUTHORIZATION OF APPROPRIATIONS.—*
21 *There is authorized to be appropriated such sums as*
22 *may be necessary to carry out the grant program es-*
23 *tablished under this subsection.*

24 (b) *INTEROPERABLE COMMUNICATIONS FOR LAW EN-*
25 *FORCEMENT.—*

1 (1) *FEDERAL LAW ENFORCEMENT.*—*There are*
2 *authorized to be appropriated, to the Department, the*
3 *Department of Justice, and the Department of the In-*
4 *terior, during the 5-year period beginning on the date*
5 *of the enactment of this Act, such sums as may be*
6 *necessary—*

7 (A) *to purchase, through a competitive pro-*
8 *curement process, P25-compliant radios, which*
9 *may include a multi-band option, for Federal*
10 *law enforcement agents working in the Southwest*
11 *border region in support of the activities of U.S.*
12 *Customs and Border Protection and U.S. Immi-*
13 *gration and Customs Enforcement, including*
14 *law enforcement agents of the Drug Enforcement*
15 *Administration, the Bureau of Alcohol, Tobacco,*
16 *Firearms and Explosives, the Department of the*
17 *Interior, and the Forest Service; and*

18 (B) *to upgrade, through a competitive pro-*
19 *curement process, the communications network of*
20 *the Department of Justice to ensure coverage and*
21 *capacity, particularly when immediate access is*
22 *needed in times of crisis, in the Southwest Bor-*
23 *der region for appropriate law enforcement per-*
24 *sonnel of the Department of Justice (including*
25 *the Drug Enforcement Administration and the*

1 *Bureau of Alcohol, Tobacco, Firearms and Ex-*
2 *plosives), the Department (including U.S. Immig-*
3 *ration and Customs Enforcement and U.S. Cus-*
4 *toms and Border Protection), the United States*
5 *Marshals Service, other Federal agencies, the*
6 *State of Arizona, tribes, and local governments.*

7 (2) *STATE AND LOCAL LAW ENFORCEMENT.—*

8 (A) *AUTHORIZATION OF APPROPRIA-*
9 *TIONS.—There is authorized to be appropriated*
10 *to the Department of Justice, during the 5-year*
11 *period beginning on the date of the enactment of*
12 *this Act, such sums as may be necessary to pur-*
13 *chase, through a competitive procurement proc-*
14 *ess, P25-compliant radios, which may include a*
15 *multi-band option, for State and local law en-*
16 *forcement agents working in the Southwest bor-*
17 *der region.*

18 (B) *ACCESS TO FEDERAL SPECTRUM.—If a*
19 *State, tribal, or local law enforcement agency in*
20 *the Southwest border region experiences an emer-*
21 *gency situation that necessitates immediate com-*
22 *munication with the Department of Justice, the*
23 *Department, the Department of the Interior, or*
24 *any of their respective subagencies, such law en-*
25 *forcement agency shall have access to the spec-*

1 *trum assigned to such Federal agency for the du-*
2 *ration of such emergency situation.*

3 **SEC. 1108. SOUTHWEST BORDER REGION PROSECUTION**
4 **INITIATIVE.**

5 *(a) REIMBURSEMENT TO STATE AND LOCAL PROSECU-*
6 *TORS FOR FEDERALLY INITIATED CRIMINAL CASES.—The*
7 *Attorney General shall reimburse State, county, tribal, and*
8 *municipal governments for costs associated with the pros-*
9 *ecution, pretrial services and detention, clerical support,*
10 *and public defenders' services associated with the prosecu-*
11 *tion of federally initiated immigration-related criminal*
12 *cases declined by local offices of the United States Attorneys.*

13 *(b) EXCEPTION.—Reimbursement under subsection (a)*
14 *shall not be available, at the discretion of the Attorney Gen-*
15 *eral, if the Attorney General determines that there is reason*
16 *to believe that the jurisdiction seeking reimbursement has*
17 *engaged in unlawful conduct in connection with immigra-*
18 *tion-related apprehensions.*

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

23 **SEC. 1109. INTERAGENCY COLLABORATION.**

24 *The Assistant Secretary of Defense for Research and*
25 *Engineering shall collaborate with the Under Secretary of*

1 *Homeland Security for Science and Technology to identify*
2 *equipment and technology used by the Department of De-*
3 *fense that could be used by U.S. Customs and Border Pro-*
4 *tection to improve the security of the Southern border by—*

- 5 (1) *detecting border tunnels;*
6 (2) *detecting the use of ultralight aircraft;*
7 (3) *enhancing wide aerial surveillance; and*
8 (4) *otherwise improving the enforcement of such*
9 *border.*

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

11 (a) *SCAAP REAUTHORIZATION.—Section 241(i)(5)(C)*
12 *(8 U.S.C. 1231(i)(5)) is amended by striking “2011.” and*
13 *inserting “2016.”.*

14 (b) *SCAAP ASSISTANCE FOR STATES.—*

15 (1) *ASSISTANCE FOR STATES INCARCERATING*
16 *UNDOCUMENTED ALIENS CHARGED WITH CERTAIN*
17 *CRIMES.—Section 241(i)(3)(A) (8 U.S.C.*
18 *1231(i)(3)(A)) is amended by inserting “charged with*
19 *or” before “convicted”.*

20 (2) *ASSISTANCE FOR STATES INCARCERATING*
21 *UNVERIFIED ALIENS.—Section 241(i) (8 U.S.C.*
22 *1231(i)), as amended by subsection (a), is further*
23 *amended—*

1 (A) by redesignating paragraphs (4), (5),
2 and (6), as paragraphs (5), (6), and (7), respec-
3 tively;

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

6 (C) by adding after paragraph (3) the fol-
7 lowing:

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

16 (3) *TIMELY REIMBURSEMENT.*—Section 241(i) (8
17 U.S.C. 1231(i)), as amended by subsections (a) and
18 (b), is further amended by adding at the end the fol-
19 lowing—

20 “(8) Any funds awarded to a State or a political
21 subdivision of a State, including a municipality, for
22 a fiscal year under this subsection shall be distributed
23 to such State or political subdivision not later than
24 120 days after the last day of the application period

1 *for assistance under this subsection for that fiscal*
2 *year.”.*

3 **SEC. 1111. USE OF FORCE.**

4 *Not later than 180 days after the date of the enactment*
5 *of this Act, the Secretary, in consultation with the Assistant*
6 *Attorney General for the Civil Rights Division of the De-*
7 *partment of Justice, shall issue policies governing the use*
8 *of force by all Department personnel that—*

9 (1) *require all Department personnel to report*
10 *each use of force; and*

11 (2) *establish procedures for—*

12 (A) *accepting and investigating complaints*
13 *regarding the use of force by Department per-*
14 *sonnel;*

15 (B) *disciplining Department personnel who*
16 *violate any law or Department policy relating to*
17 *the use of force; and*

18 (C) *reviewing all uses of force by Depart-*
19 *ment personnel to determine whether the use of*
20 *force—*

21 (i) *complied with Department policy;*

22 *or*

23 (ii) *demonstrates the need for changes*
24 *in policy, training, or equipment.*

1 **SEC. 1112. TRAINING FOR BORDER SECURITY AND IMMI-**
2 **GRATION ENFORCEMENT OFFICERS.**

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

13 (1) *identifying and detecting fraudulent travel*
14 *documents;*

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

17 (3) *the scope of enforcement authorities, includ-*
18 *ing interrogations, stops, searches, seizures, arrests,*
19 *and detentions;*

20 (4) *the use of force policies issued by the Sec-*
21 *retary pursuant to section 1111;*

22 (5) *immigration laws, including screening, iden-*
23 *tifying, and addressing vulnerable populations, such*
24 *as children, victims of crime and human trafficking,*
25 *and individuals fleeing persecution or torture;*

1 (6) *social and cultural sensitivity toward border*
2 *communities;*

3 (7) *the impact of border operations on commu-*
4 *nities; and*

5 (8) *any particular environmental concerns in a*
6 *particular area.*

7 (b) *TRAINING FOR BORDER COMMUNITY LIAISON OF-*
8 *FICERS.—The Secretary shall ensure that border commu-*
9 *nities liaison officers in Border Patrol sectors along the*
10 *international borders between the United States and Mexico*
11 *and between the United States and Canada receive training*
12 *to better—*

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

17 (2) *foster and institutionalize consultation with*
18 *border communities;*

19 (3) *consult with border communities on Depart-*
20 *ment programs, policies, strategies, and directives;*
21 *and*

22 (4) *receive Department performance assessments*
23 *from border communities.*

24 (c) *HUMANE CONDITIONS OF CONFINEMENT FOR CHIL-*
25 *DREN IN U.S. CUSTOMS AND BORDER PROTECTION CUS-*

1 *TODY.—Not later than 90 days after the date of the enact-*
2 *ment of this Act, the Secretary shall establish standards to*
3 *ensure that children in the custody of U.S. Customs and*
4 *Border Protection—*

5 (1) *are afforded adequate medical and mental*
6 *health care, including emergency medical and mental*
7 *health care, when necessary;*

8 (2) *receive adequate nutrition;*

9 (3) *are provided with climate-appropriate cloth-*
10 *ing, footwear, and bedding;*

11 (4) *have basic personal hygiene and sanitary*
12 *products; and*

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

15 **SEC. 1113. DEPARTMENT OF HOMELAND SECURITY BORDER**

16 **OVERSIGHT TASK FORCE.**

17 (a) *ESTABLISHMENT.—*

18 (1) *IN GENERAL.—There is established an inde-*
19 *pendent task force, which shall be known as the De-*
20 *partment of Homeland Security Border Oversight*
21 *Task Force (referred to in this section as the “DHS*
22 *Task Force”).*

23 (2) *DUTIES.—The DHS Task Force shall—*

24 (A) *review and make recommendations re-*
25 *garding immigration and border enforcement*

1 *policies, strategies, and programs that take into*
2 *consideration their impact on border commu-*
3 *nities;*

4 *(B) recommend ways in which the Border*
5 *Communities Liaison Offices can strengthen re-*
6 *lations and collaboration between communities*
7 *in the border regions and the Department, the*
8 *Department of Justice, and other Federal agen-*
9 *cies that carry out such policies, strategies, and*
10 *programs;*

11 *(C) evaluate how the policies, strategies,*
12 *and programs of Federal agencies operating*
13 *along the international borders between the*
14 *United States and Mexico and between the*
15 *United States and Canada protect the due proc-*
16 *ess, civil, and human rights of border residents,*
17 *visitors, and migrants at and near such borders;*
18 *and*

19 *(D) evaluate and make recommendations re-*
20 *garding the training of border enforcement per-*
21 *sonnel described in section 1112.*

22 *(3) MEMBERSHIP.—*

23 *(A) IN GENERAL.—The DHS Task Force*
24 *shall be composed of 29 members, appointed by*
25 *the President, who have expertise in migration,*

1 *local crime indices, civil and human rights, com-*
2 *munity relations, cross-border trade and com-*
3 *merce, quality of life indicators, or other perti-*
4 *nent experience, of whom—*

5 *(i) 12 members shall be from the*
6 *Northern border region and shall include—*

7 *(I) 2 local government elected offi-*
8 *cials;*

9 *(II) 2 local law enforcement offi-*
10 *cials;*

11 *(III) 2 civil rights advocates;*

12 *(IV) 1 business representative;*

13 *(V) 1 higher education representa-*
14 *tive;*

15 *(VI) 1 private land owner rep-*
16 *resentative;*

17 *(VII) 1 representative of a faith*
18 *community; and*

19 *(VIII) 2 representatives of U.S.*
20 *Border Patrol; and*

21 *(ii) 17 members shall be from the*
22 *Southern border region and include—*

23 *(I) 3 local government elected offi-*
24 *cials;*

925

1 (II) 3 local law enforcement offi-
2 cials;

3 (III) 3 civil rights advocates;

4 (IV) 2 business representatives;

5 (V) 1 higher education representa-
6 tive;

7 (VI) 2 private land owner rep-
8 resentatives;

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

11 (VIII) 2 representatives of U.S.
12 Border Patrol.

13 (B) *TERM OF SERVICE.*—Members of the
14 Task Force shall be appointed for the shorter
15 of—

16 (i) 3 years; or

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

18 (C) *CHAIR, VICE CHAIR.*—The members of
19 the DHS Task Force shall elect a Chair and a
20 Vice Chair from among its members, who shall
21 serve in such capacities for the life of the DHS
22 Task Force or until removed by the majority vote
23 of at least 14 members.

24 (b) *OPERATIONS.*—

1 (1) *HEARINGS.*—*The DHS Task Force may, for*
2 *the purpose of carrying out its duties, hold hearings,*
3 *sit and act, take testimony, receive evidence, and ad-*
4 *minister oaths.*

5 (2) *RECOMMENDATIONS.*—*The DHS Task Force*
6 *may make findings or recommendations to the Sec-*
7 *retary related to the duties described in subsection*
8 *(a)(2).*

9 (3) *RESPONSE.*—*Not later than 180 days after*
10 *receiving the findings and recommendations from the*
11 *DHS Task Force under paragraph (2), the Secretary*
12 *shall issue a response that describes how the Depart-*
13 *ment has addressed, or will address, such findings*
14 *and recommendations. If the Secretary disagrees with*
15 *any finding of the DHS Task Force, the Secretary*
16 *shall provide an explanation for the disagreement.*

17 (4) *INFORMATION FROM FEDERAL AGENCIES.*—
18 *The Chair, or 16 members of the DHS Task Force,*
19 *may request statistics relating to the duties described*
20 *in subsection (a)(2) directly from any Federal agency,*
21 *which shall, to the extent authorized by law, furnish*
22 *such information, suggestions, estimates, and statis-*
23 *tics directly to the DHS Task Force.*

24 (5) *COMPENSATION.*—*Members of the DHS Task*
25 *Force shall serve without pay, but shall be reimbursed*

1 *for reasonable travel and subsistence expenses in-*
2 *curring in the performance of their duties.*

3 (c) *REPORT.*—*Not later than 2 years after its first*
4 *meeting, the DHS Task Force shall submit a final report*
5 *to the President, Congress, and the Secretary that con-*
6 *tains—*

7 (1) *findings with respect to the duties of the*
8 *DHS Task Force; and*

9 (2) *recommendations regarding border and im-*
10 *migration enforcement policies, strategies, and pro-*
11 *grams, including—*

12 (A) *a recommendation as to whether the*
13 *DHS Task Force should continue to operate; and*

14 (B) *a description of any duties for which*
15 *the DHS Task Force should be responsible after*
16 *the termination date described in subsection (e).*

17 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
18 *authorized to be appropriated such sums as may be nec-*
19 *essary to carry out this section for each of the fiscal years*
20 *2014 through 2017.*

21 (e) *SUNSET.*—*The DHS Task Force shall terminate*
22 *operations 60 days after the date on which the DHS Task*
23 *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 Secu-*
5 *rity Act of 2002 (6 U.S.C. 111 et seq.) is amended by add-*
6 *ing 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 Depart-*
10 *ment an Ombudsman for Immigration Related Concerns*
11 *(in this section referred to as the ‘Ombudsman’). The indi-*
12 *vidual appointed as Ombudsman shall have a background*
13 *in immigration law as well as civil and human rights law.*
14 *The Ombudsman shall report directly to the Deputy Sec-*
15 *retary.*

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 Depart-*
21 *ment.*

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 have*
2 *been the victims of crimes committed by aliens or vio-*
3 *lence 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 changes*
8 *in the administrative practices of the immigration*
9 *components of the Department to mitigate problems*
10 *identified under paragraph (4).*

11 “(6) *To review, examine, and make recommenda-*
12 *tions regarding the immigration and enforcement*
13 *policies, strategies, and programs of U.S. Customs*
14 *and Border Protection, U.S. Immigration and Cus-*
15 *toms Enforcement, and U.S. Citizenship and Immi-*
16 *gration 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 alloca-*
21 *tion of local offices of the Ombudsman, including ap-*
22 *pointing a local ombudsman for immigration related*
23 *concerns; and*

1 “(2) *evaluate and take personnel actions (includ-*
2 *ing dismissal) with respect to any employee of the*
3 *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 Immigration*
10 *Services, the Assistant Secretary of Immigration and Cus-*
11 *toms Enforcement, and the Commissioner of Customs and*
12 *Border Protection shall each establish procedures to provide*
13 *formal responses to recommendations submitted to such offi-*
14 *cial 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 on*
19 *the objectives of the Ombudsman for the fiscal year begin-*
20 *ning in such calendar year. Each report shall contain full*
21 *and substantive analysis, in addition to statistical informa-*
22 *tion, and shall set forth any recommendations the Ombuds-*
23 *man has made on improving the services and responsiveness*
24 *of U.S. Citizenship and Immigration Services, U.S. Immi-*
25 *gration and Customs Enforcement, and U.S. Customs and*

1 *Border Protection and any responses received from the De-*
2 *partment regarding such recommendations.”.*

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

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

8 (1) *by inserting after the item relating to section*
9 *103 the following new item:*

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

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

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

13 (a) *DEFINITIONS.*—*In this section:*

14 (1) *APPREHENDED INDIVIDUAL.*—*The term “ap-*
15 *prehended individual” means an individual appre-*
16 *hended by personnel of the Department of Homeland*
17 *Security or of a cooperating entity pursuant to a mi-*
18 *gration deterrence program carried out at a border.*

19 (2) *BORDER.*—*The term “border” means an*
20 *international border of the United States.*

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

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

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

11 (b) *PROCEDURES FOR MIGRATION DETERRENCE PRO-*
12 *GRAMS AT THE BORDER*.—

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

17 (A) *as soon as practicable after such indi-*
18 *vidual is apprehended—*

19 (i) *inquire as to whether the appre-*
20 *hended individual is—*

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

23 (II) *traveling with a spouse or*
24 *child; and*

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

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

9 (i) to the best interests of such individ-
10 ual's child, if any;

11 (ii) to family unity whenever possible;
12 and

13 (iii) to other public interest factors, in-
14 cluding humanitarian concerns and con-
15 cerns related to the apprehended individ-
16 ual's physical safety.

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

22 (1) develop and provide specialized training for
23 all personnel of U.S. Customs and Border Protection
24 and cooperating entities who come into contact with
25 apprehended individuals in all legal authorities, poli-

1 *cies, and procedures relevant to the preservation of a*
2 *child's best interest, family unity, and other public*
3 *interest factors, including those described in this Act;*
4 *and*

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

12 *(d) ANNUAL REPORT ON THE IMPACT OF MIGRATION*
13 *DETERRENCE PROGRAMS AT THE BORDER.—*

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

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

1 (A) *the number of apprehended individuals*
2 *removed, repatriated, or referred for prosecution*
3 *who are the parent, legal guardian, or primary*
4 *caregiver of a child who is a citizen of the*
5 *United States;*

6 (B) *the number of occasions in which both*
7 *parents, or the primary caretaker of such a child*
8 *was removed, repatriated, or referred for pros-*
9 *ecution as part of a migration deterrence pro-*
10 *gram;*

11 (C) *the number of apprehended individuals*
12 *traveling with close family members who are re-*
13 *moved, repatriated, or referred for prosecution.*

14 (D) *the impact of migration deterrence pro-*
15 *grams on public interest factors, including hu-*
16 *manitarian concerns and physical safety.*

17 (e) *REGULATIONS.—Not later than 120 days after the*
18 *date of the enactment of this Act, the Secretary shall pro-*
19 *mulgate regulations to implement this section.*

20 **SEC. 1116. REPORTS.**

21 (a) *REPORT ON CERTAIN BORDER MATTERS.—The*
22 *Secretary shall submit a report to the Committee on Home-*
23 *land Security and Governmental Affairs of the Senate, the*
24 *Committee on Homeland Security of the House of Rep-*
25 *resentatives, the Committee on the Judiciary of the Senate,*

1 *and the Committee on the Judiciary of the House of Rep-*
2 *resentatives 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 bor-*
7 *der 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; and*

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

14 (b) *REPORT ON INTERAGENCY COLLABORATION.—The*
15 *Under Secretary of Defense for Acquisition, Technology,*
16 *and Logistics and the Under Secretary of Homeland Secu-*
17 *rity for Science and Technology shall jointly submit a re-*
18 *port on the results of the interagency collaboration under*
19 *section 1109 to—*

20 (1) *the Committee on Armed Services of the Sen-*
21 *ate;*

22 (2) *the Committee on Homeland Security and*
23 *Governmental Affairs of the Senate;*

24 (3) *the Committee on the Judiciary of the Sen-*
25 *ate;*

1 (4) *the Committee on Armed Services of the*
2 *House of Representatives;*

3 (5) *the Committee on Homeland Security of the*
4 *House of Representatives; and*

5 (6) *the Committee on the Judiciary of the House*
6 *of Representatives.*

7 **SEC. 1117. SEVERABILITY AND DELEGATION.**

8 (a) *SEVERABILITY.*—*If any provision of this Act or*
9 *any amendment made by this Act, or any application of*
10 *such provision or amendment to any person or cir-*
11 *cumstance, is held to be unconstitutional, the remainder of*
12 *the provisions of this Act and the amendments made by this*
13 *Act and the application of the provision or amendment to*
14 *any other person or circumstance shall not be affected.*

15 (b) *DELEGATION.*—*The Secretary may delegate any*
16 *authority provided to the Secretary under this Act or an*
17 *amendment made by this Act to the Secretary of Agri-*
18 *culture, the Attorney General, the Secretary of Defense, the*
19 *Secretary of Health and Human Services, the Secretary of*
20 *State, or the Commissioner of Social Security.*

21 **SEC. 1118. PROHIBITION ON LAND BORDER CROSSING**

22 **FEES.**

23 *The Secretary shall not establish, collect, or otherwise*
24 *impose a border crossing fee for pedestrians or passenger*
25 *vehicles at land ports of entry along the Southern border*

1 *or the Northern border, nor conduct any study relating to*
2 *the imposition of such a fee.*

3 **SEC. 1119. HUMAN TRAFFICKING REPORTING.**

4 (a) *SHORT TITLE.*—*This section may be cited as the*
5 *“Border Security, Economic Opportunity, and Immigra-*
6 *tion Modernization Act”.*

7 (b) *FINDINGS.*—*Congress finds the following:*

8 (1) *Human trafficking is a form of modern-day*
9 *slavery.*

10 (2) *According to the Trafficking Victims Protec-*
11 *tion Act of 2000 “severe forms of trafficking in per-*
12 *sons” means—*

13 (A) *sex trafficking in which a commercial*
14 *sex act is induced by force, fraud, or coercion, or*
15 *in which the person induced to perform such act*
16 *has not attained 18 years of age; or*

17 (B) *the recruitment, harboring, transpor-*
18 *tation, provision, or obtaining of a person for*
19 *labor or services, through the use of force, fraud,*
20 *or coercion for the purpose of subjection to invol-*
21 *untary servitude, peonage, debt bondage, or slav-*
22 *ery.*

23 (3) *There is an acute need for better data collec-*
24 *tion of incidents of human trafficking across the*

1 *United States in order to effectively combat severe*
2 *forms of trafficking in persons.*

3 (4) *The State Department’s 2012 Trafficking in*
4 *Persons report found that—*

5 (A) *the United States is a “source, transit*
6 *and destination country for men, women, and*
7 *children, subjected to forced labor, debt bondage,*
8 *domestic servitude and sex trafficking,”; and*

9 (B) *the United States needs to “improve*
10 *data collection on human trafficking cases at the*
11 *federal, state and local levels”.*

12 (5) *The International Organization for Migra-*
13 *tion has reported that in order to effectively combat*
14 *human trafficking there must be reliable and stand-*
15 *ardized data, however, the following barriers for data*
16 *collection exist:*

17 (A) *The illicit and underground nature of*
18 *human trafficking.*

19 (B) *The reluctance of victims to share infor-*
20 *mation with authorities.*

21 (C) *Insufficient human trafficking data col-*
22 *lection and research efforts by governments*
23 *worldwide.*

24 (6) *A 2009 report to the Department of Health*
25 *and Human Services entitled Human Trafficking*

1 *Into and Within the United States: A Review of the*
2 *Literature found that “the data and methodologies for*
3 *estimating the prevalence of human trafficking glob-*
4 *ally and nationally are not well developed, and there-*
5 *fore estimates have varied widely and changed signifi-*
6 *cantly over time”.*

7 *(7) The Federal Bureau of Investigation compiles*
8 *national crime statistics through the Uniform Crime*
9 *Reporting Program.*

10 *(8) Under current law, State and local govern-*
11 *ments receiving Edward Byrne Memorial Justice As-*
12 *sistance grants are required to share data on part 1*
13 *violent crimes with the Federal Bureau of Investiga-*
14 *tion for inclusion in the Uniform Crime Reporting*
15 *Program.*

16 *(9) The addition of severe forms of trafficking in*
17 *persons to the definition of part 1 violent crimes will*
18 *ensure that statistics on this heinous crime will be*
19 *compiled and available through the Federal Bureau of*
20 *Investigation’s Uniform Crime Report.*

21 *(c) HUMAN TRAFFICKING TO BE INCLUDED IN PART*
22 *1 VIOLENT CRIMES FOR PURPOSES OF BYRNE GRANTS.—*
23 *Section 505 of the Omnibus Crime Control and Safe Streets*
24 *Act of 1968 (42 U.S.C. 3755) is amended by adding at the*
25 *end the following new subsection:*

1 “(i) *PART 1 VIOLENT CRIMES TO INCLUDE HUMAN*
2 *TRAFFICKING.—For purposes of this section, the term ‘part*
3 *1 violent crimes’ shall include severe forms of trafficking*
4 *in persons, as defined in section 103(8) of the Trafficking*
5 *Victims Protection Act of 2000 (22 U.S.C. 7102(8)).”.*

6 **SEC. 1120. RULE OF CONSTRUCTION.**

7 *Nothing in this Act may be construed to authorize the*
8 *deployment, procurement, or construction of fencing along*
9 *the Northern border.*

10 **SEC. 1121. LIMITATIONS ON DANGEROUS DEPORTATION**
11 **PRACTICES.**

12 (a) *CERTIFICATION REQUIRED.—*

13 (1) *IN GENERAL.—Not later than 1 year after*
14 *the date of the enactment of this Act, and every 180*
15 *days thereafter, the Secretary, except as provided in*
16 *paragraph (2), shall submit written certification to*
17 *Congress that the Department has only deported or*
18 *otherwise removed a migrant from the United States*
19 *through an entry or exit point on the Southern border*
20 *during daylight hours.*

21 (2) *EXCEPTION.—The certification required*
22 *under paragraph (1) shall not apply to the deporta-*
23 *tion or removal of a migrant otherwise described in*
24 *that paragraph if—*

1 (A) *the manner of the deportation or re-*
2 *moval is justified by a compelling governmental*
3 *interest;*

4 (B) *the manner of the deportation or re-*
5 *moval is in accordance with an applicable Local*
6 *Arrangement for the Repatriation of Mexican*
7 *Nationals entered into by the appropriate Mexi-*
8 *can Consulate; or*

9 (C) *the migrant is not an unaccompanied*
10 *minor and the migrant—*

11 (i) *is deported or removed through an*
12 *entry or exit point in the same sector as the*
13 *place where the migrant was apprehended;*
14 *or*

15 (ii) *agrees to be deported or removed in*
16 *such manner after being notified of the in-*
17 *tended manner of deportation or removal.*

18 (b) *ADDITIONAL INFORMATION REQUIRED.—Not later*
19 *than 1 year after the date of the enactment of this Act, the*
20 *Secretary shall submit to Congress a study of the Alien*
21 *Transfer Exit Program, which shall include—*

22 (1) *the specific locations on the Southern border*
23 *where lateral repatriations have occurred during the*
24 *1-year period preceding the submission of the study;*

1 (2) *the performance measures developed by U.S.*
2 *Customs and Border Protection to determine if the*
3 *Alien Transfer Exit Program is deterring migrants*
4 *from repeatedly crossing the border or otherwise re-*
5 *ducing recidivism; and*

6 (3) *the consideration given, if any, to the rates*
7 *of violent crime and the availability of infrastructure*
8 *and social services in Mexico near such locations.*

9 (c) **PROHIBITION ON CONFISCATION OF PROPERTY.**—
10 *Notwithstanding any other provision of law, lawful, non-*
11 *perishable belongings of a migrant that are confiscated by*
12 *personnel operating under Federal authority shall be re-*
13 *turned to the migrant before repatriation, to the extent*
14 *practicable.*

15 **TITLE II—IMMIGRANT VISAS**
16 **Subtitle A—Registration and Ad-**
17 **justment of Registered Provi-**
18 **sional Immigrants**

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

20 (a) **AUTHORIZATION.**—*Chapter 5 of title II (8 U.S.C.*
21 *1255 et seq.) is amended by inserting after section 245A*
22 *the following:*

1 **“SEC. 245B. ADJUSTMENT OF STATUS OF ELIGIBLE EN-**
2 **TRANS BEFORE DECEMBER 31, 2011, TO**
3 **THAT OF REGISTERED PROVISIONAL IMMI-**
4 **GRANT.**

5 *“(a) IN GENERAL.—Notwithstanding any other provi-*
6 *sion of law, the Secretary of Homeland Security (referred*
7 *to in this section and in sections 245C through 245F as*
8 *the ‘Secretary’), after conducting the national security and*
9 *law enforcement clearances required under subsection*
10 *(c)(8), may grant registered provisional immigrant status*
11 *to an alien who—*

12 *“(1) meets the eligibility requirements set forth*
13 *in subsection (b);*

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

16 *“(3) has paid the fee required under subsection*
17 *(c)(10)(A) and the penalty required under subsection*
18 *(c)(10)(C), if applicable.*

19 *“(b) ELIGIBILITY REQUIREMENTS.—*

20 *“(1) IN GENERAL.—An alien is not eligible for*
21 *registered provisional immigrant status unless the*
22 *alien establishes, by a preponderance of the evidence,*
23 *that the alien meets the requirements set forth in this*
24 *subsection.*

25 *“(2) PHYSICAL PRESENCE.—*

26 *“(A) IN GENERAL.—The alien—*

1 “(i) shall be physically present in the
2 United States on the date on which the
3 alien submits an application for registered
4 provisional immigrant status;

5 “(ii) shall have been physically present
6 in the United States on or before December
7 31, 2011; and

8 “(iii) shall have maintained contin-
9 uous physical presence in the United States
10 from December 31, 2011, until the date on
11 which the alien is granted status as a reg-
12 istered provisional immigrant under this
13 section.

14 “(B) *BREAK IN PHYSICAL PRESENCE.*—

15 “(i) *IN GENERAL.*—*Except as provided*
16 *in clause (ii), an alien who is absent from*
17 *the United States without authorization*
18 *after the date of the enactment of the Border*
19 *Security, Economic Opportunity, and Im-*
20 *migration Modernization Act does not meet*
21 *the continuous physical presence require-*
22 *ment set forth in subparagraph (A)(iii).*

23 “(ii) *EXCEPTION.*—*An alien who de-*
24 *parted from the United States after Decem-*
25 *ber 31, 2011, will not be considered to have*

1 *failed to maintain continuous presence in*
2 *the United States if the alien's absences*
3 *from the United States are brief, casual,*
4 *and innocent whether or not such absences*
5 *were authorized by the Secretary.*

6 “(3) *GROUNDS FOR INELIGIBILITY.—*

7 “(A) *IN GENERAL.—Except as provided in*
8 *subparagraph (B), an alien is ineligible for reg-*
9 *istered provisional immigrant status if the Sec-*
10 *retary determines that the alien—*

11 “(i) *has a conviction for—*

12 “(I) *an offense classified as a fel-*
13 *ony in the convicting jurisdiction*
14 *(other than a State or local offense for*
15 *which an essential element was the*
16 *alien's immigration status or a viola-*
17 *tion of this Act);*

18 “(II) *an aggravated felony (as de-*
19 *finied in section 101(a)(43) at the time*
20 *of the conviction);*

21 “(III) *3 or more misdemeanor of-*
22 *fenses (other than minor traffic offenses*
23 *or State or local offenses for which an*
24 *essential element was the alien's immi-*
25 *gration status or violations of this Act)*

1 *if the alien was convicted on different*
2 *dates for each of the 3 offenses;*

3 *“(IV) any offense under foreign*
4 *law, except for a purely political of-*
5 *fense, which, if the offense had been*
6 *committed in the United States, would*
7 *render the alien inadmissible under*
8 *section 212(a) (excluding the para-*
9 *graphs set forth in clause (ii)) or re-*
10 *movable under section 237(a), except*
11 *as provided in paragraph (3) of section*
12 *237(a);*

13 *“(V) unlawful voting (as defined*
14 *in section 237(a)(6));*

15 *“(ii) is inadmissible under section*
16 *212(a), except that in determining an*
17 *alien’s inadmissibility—*

18 *“(I) paragraphs (4), (5), (7), and*
19 *(9)(B) of section 212(a) shall not*
20 *apply;*

21 *“(II) subparagraphs (A), (C), (D),*
22 *(F), and (G) of section 212(a)(6) and*
23 *paragraphs (9)(C) and (10)(B) of sec-*
24 *tion 212(a) shall not apply unless*
25 *based on the act of unlawfully entering*

1 *the United States after the date of the*
2 *enactment of the Border Security, Eco-*
3 *nomics Opportunity, and Immigration*
4 *Modernization Act; and*

5 *“(III) paragraphs (6)(B) and*
6 *(9)(A) of section 212(a) shall not apply*
7 *unless the relevant conduct began on or*
8 *after the date on which the alien files*
9 *an application for registered provi-*
10 *sional immigrant status under this sec-*
11 *tion;*

12 *“(iii) is an alien who the Secretary*
13 *knows or has reasonable grounds to believe,*
14 *is engaged in or is likely to engage after*
15 *entry in any terrorist activity (as defined*
16 *in section 212(a)(3)(B)(iv)); or*

17 *“(iv) was, on April 16, 2013—*

18 *“(I) an alien lawfully admitted*
19 *for permanent residence;*

20 *“(II) an alien admitted as a ref-*
21 *ugee under section 207 or granted asy-*
22 *lum under section 208; or*

23 *“(III) an alien who, according to*
24 *the records of the Secretary or the Sec-*
25 *retary of State, is lawfully present in*

1 *the United States in any non-*
2 *immigrant status (other than an alien*
3 *considered to be a nonimmigrant solely*
4 *due to the application of section*
5 *244(f)(4) or the amendment made by*
6 *section 702 of the Consolidated Natural*
7 *Resources Act of 2008 (Public Law*
8 *110–229)), notwithstanding any unau-*
9 *thorized employment or other violation*
10 *of nonimmigrant status.*

11 “(B) *WAIVER.—*

12 *“(i) IN GENERAL.—The Secretary may*
13 *waive the application of subparagraph*
14 *(A)(i)(III) or any provision of section*
15 *212(a) that is not listed in clause (ii) on be-*
16 *half of an alien for humanitarian purposes,*
17 *to ensure family unity, or if such a waiver*
18 *is otherwise in the public interest. Any dis-*
19 *cretionary authority to waive grounds of in-*
20 *admissibility under section 212(a) conferred*
21 *under any other provision of this Act shall*
22 *apply equally to aliens seeking registered*
23 *provisional status under this section.*

1 “(ii) *EXCEPTIONS.*—*The discretionary*
2 *authority under clause (i) may not be used*
3 *to waive—*

4 “(I) *subparagraph (B), (C),*
5 *(D)(ii), (E), (G), (H), or (I) of section*
6 *212(a)(2);*

7 “(II) *section 212(a)(3);*

8 “(III) *subparagraph (A), (C), (D),*
9 *or (E) of section 212(a)(10); or*

10 “(IV) *with respect to misrepresen-*
11 *tations relating to the application for*
12 *registered provisional immigrant sta-*
13 *tus, section 212(a)(6)(C)(i).*

14 “(C) *CONVICTION EXPLAINED.*—*For pur-*
15 *poses of this paragraph, the term ‘conviction’*
16 *does not include a judgment that has been ex-*
17 *punged, set aside, or the equivalent.*

18 “(D) *RULE OF CONSTRUCTION.*—*Nothing in*
19 *this paragraph may be construed to require the*
20 *Secretary to commence removal proceedings*
21 *against an alien.*

22 “(4) *APPLICABILITY OF OTHER PROVISIONS.*—
23 *Sections 208(d)(6) and 240B(d) shall not apply to*
24 *any alien filing an application for registered provi-*
25 *sional immigrant status under this section.*

1 “(5) *DEPENDENT SPOUSE AND CHILDREN.*—

2 “(A) *IN GENERAL.*—*Notwithstanding any*
3 *other provision of law, the Secretary may clas-*
4 *sify the spouse or child of a registered provi-*
5 *sional immigrant as a registered provisional im-*
6 *migrant dependent if the spouse or child—*

7 “(i) *was physically present in the*
8 *United States on or before December 31,*
9 *2012, and has maintained continuous pres-*
10 *ence in the United States from that date*
11 *until the date on which the registered provi-*
12 *sional immigrant is granted such status,*
13 *with the exception of absences from the*
14 *United States that are brief, casual, and in-*
15 *nocent, whether or not such absences were*
16 *authorized by the Secretary; and*

17 “(ii) *meets all of the eligibility require-*
18 *ments set forth in this subsection, other than*
19 *the requirements of clause (ii) or (iii) of*
20 *paragraph (2)(A).*

21 “(B) *EFFECT OF TERMINATION OF LEGAL*
22 *RELATIONSHIP OR DOMESTIC VIOLENCE.*—*If the*
23 *spousal or parental relationship between an*
24 *alien who is granted registered provisional im-*
25 *migrant status under this section and the alien’s*

1 *spouse or child is terminated due to death or di-*
2 *vorce or the spouse or child has been battered or*
3 *subjected to extreme cruelty by the alien (regard-*
4 *less of whether the legal relationship terminates),*
5 *the spouse or child may apply for classification*
6 *as a registered provisional immigrant.*

7 “(C) *EFFECT OF DISQUALIFICATION OF*
8 *PARENT.—Notwithstanding subsection (c)(3), if*
9 *the application of a spouse or parent for reg-*
10 *istered provisional immigrant status is termi-*
11 *nated or revoked, the husband, wife, or child of*
12 *that spouse or parent shall be eligible to apply*
13 *for registered provisional immigrant status inde-*
14 *pendent of the parent or spouse.*

15 “(c) *APPLICATION PROCEDURES.—*

16 “(1) *IN GENERAL.—An alien, or the dependent*
17 *spouse or child of such alien, who meets the eligibility*
18 *requirements set forth in subsection (b) may apply for*
19 *status as a registered provisional immigrant or a reg-*
20 *istered provisional immigrant dependent, as applica-*
21 *ble, by submitting a completed application form to*
22 *the Secretary during the application period set forth*
23 *in paragraph (3), in accordance with the final rule*
24 *promulgated by the Secretary under the Border Secu-*
25 *rity, Economic Opportunity, and Immigration Mod-*

1 *ernization Act. An applicant for registered provi-*
2 *sional immigrant status shall be treated as an appli-*
3 *cant for admission.*

4 “(2) *PAYMENT OF TAXES.—*

5 “(A) *IN GENERAL.—An alien may not file*
6 *an application for registered provisional immi-*
7 *grant status under paragraph (1) unless the ap-*
8 *plicant has satisfied any applicable Federal tax*
9 *liability.*

10 “(B) *DEFINITION OF APPLICABLE FEDERAL*
11 *TAX LIABILITY.—In this paragraph, the term*
12 *‘applicable Federal tax liability’ means all Fed-*
13 *eral income taxes assessed in accordance with*
14 *section 6203 of the Internal Revenue Code of*
15 *1986.*

16 “(C) *DEMONSTRATION OF COMPLIANCE.—*
17 *An applicant may demonstrate compliance with*
18 *this paragraph by submitting appropriate docu-*
19 *mentation, in accordance with regulations pro-*
20 *mulgated by the Secretary, in consultation with*
21 *the Secretary of the Treasury.*

22 “(3) *APPLICATION PERIOD.—*

23 “(A) *INITIAL PERIOD.—Except as provided*
24 *in subparagraph (B), the Secretary may only ac-*
25 *cept applications for registered provisional im-*

1 *migrant status from aliens in the United States*
2 *during the 1-year period beginning on the date*
3 *on which the final rule is published in the Fed-*
4 *eral Register pursuant to paragraph (1).*

5 “(B) *EXTENSION.*—*If the Secretary deter-*
6 *mines, during the initial period described in*
7 *subparagraph (A), that additional time is re-*
8 *quired to process applications for registered pro-*
9 *visional immigrant status or for other good*
10 *cause, the Secretary may extend the period for*
11 *accepting applications for such status for an ad-*
12 *ditional 18 months.*

13 “(4) *APPLICATION FORM.*—

14 “(A) *REQUIRED INFORMATION.*—

15 “(i) *IN GENERAL.*—*The application*
16 *form referred to in paragraph (1) shall col-*
17 *lect such information as the Secretary deter-*
18 *mines to be necessary and appropriate, in-*
19 *cluding, for the purpose of understanding*
20 *immigration trends—*

21 “(I) *an explanation of how, when,*
22 *and where the alien entered the United*
23 *States;*

1 “(II) the country in which the
2 alien resided before entering the United
3 States; and

4 “(III) other demographic informa-
5 tion specified by the Secretary.

6 “(ii) *PRIVACY PROTECTIONS.*—Infor-
7 mation described in subclauses (I) through
8 (III) of clause (i), which shall be provided
9 anonymously by the applicant on the appli-
10 cation form referred to in paragraph (1),
11 shall be subject to the same confidentiality
12 provisions as those set forth in section 9 of
13 title 13, United States Code.

14 “(iii) *REPORT.*—The Secretary shall
15 submit a report to Congress that contains a
16 summary of the statistical data about im-
17 migration trends collected pursuant to
18 clause (i).

19 “(B) *FAMILY APPLICATION.*—The Secretary
20 shall establish a process through which an alien
21 may submit a single application under this sec-
22 tion on behalf of the alien, his or her spouse, and
23 his or her children who are residing in the
24 United States.

1 “(C) *INTERVIEW.*—*The Secretary may*
2 *interview applicants for registered provisional*
3 *immigrant status under this section to determine*
4 *whether they meet the eligibility requirements set*
5 *forth in subsection (b).*

6 “(5) *ALIENS APPREHENDED BEFORE OR DURING*
7 *THE APPLICATION PERIOD.*—*If an alien who is appre-*
8 *hended during the period beginning on the date of the*
9 *enactment of the Border Security, Economic Oppor-*
10 *tunity, and Immigration Modernization Act and the*
11 *end of the application period described in paragraph*
12 *(3) appears prima facie eligible for registered provi-*
13 *sional immigrant status, to the satisfaction of the*
14 *Secretary, the Secretary—*

15 *“(A) shall provide the alien with a reason-*
16 *able opportunity to file an application under*
17 *this section during such application period; and*

18 *“(B) may not remove the individual until a*
19 *final administrative determination is made on*
20 *the application.*

21 “(6) *ELIGIBILITY AFTER DEPARTURE.*—

22 *“(A) IN GENERAL.*—*An alien who departed*
23 *from the United States while subject to an order*
24 *of exclusion, deportation, or removal, or pursu-*
25 *ant to an order of voluntary departure and who*

1 *is outside of the United States, or who has reen-*
2 *tered the United States illegally after December*
3 *31, 2011 without receiving the Secretary’s con-*
4 *sent to reapply for admission under section*
5 *212(a)(9), shall not be eligible to file an applica-*
6 *tion for registered provisional immigrant status.*

7 *“(B) WAIVER.—The Secretary, in the Sec-*
8 *retary’s sole and unreviewable discretion, subject*
9 *to subparagraph (D), may waive the application*
10 *of subparagraph (A) on behalf of an alien if the*
11 *alien—*

12 *“(i) is the spouse or child of a United*
13 *States citizen or lawful permanent resident;*

14 *“(ii) is the parent of a child who is a*
15 *United States citizen or lawful permanent*
16 *resident;*

17 *“(iii) meets the requirements set forth*
18 *in clauses (ii) and (iii) of section*
19 *245D(b)(1)(A); or*

20 *“(iv) meets the requirements set forth*
21 *in section 245D(b)(1)(A)(ii), is 16 years or*
22 *older on the date on which the alien applies*
23 *for registered provisional immigrant status,*
24 *and was physically present in the United*
25 *States for an aggregate period of not less*

1 *than 3 years during the 6-year period im-*
2 *mediately preceding the date of the enact-*
3 *ment of the Border Security, Economic Op-*
4 *portunity, and Immigration Modernization*
5 *Act.*

6 “(C) *ELIGIBILITY.*—*Subject to subpara-*
7 *graph (D) and notwithstanding subsection*
8 *(b)(2), section 241(a)(5), or a prior order of ex-*
9 *clusion, deportation, or removal, an alien de-*
10 *scribed in subparagraph (B) who is otherwise el-*
11 *igible for registered provisional immigrant status*
12 *may file an application for such status.*

13 “(D) *CRIME VICTIMS’ RIGHTS TO NOTICE*
14 *AND CONSULTATION.*—*Prior to applying, or exer-*
15 *cising, any authority under this paragraph, or*
16 *ruling upon an application allowed under sub-*
17 *paragraph (C) the Secretary shall—*

18 “(i) *determine whether or not an alien*
19 *described under subparagraph (B) or (C)*
20 *has a conviction for any criminal offense;*

21 “(ii) *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 identify each victim of a crime for*
2 *which an alien determined to be a criminal*
3 *under clause (i) has a conviction;*

4 *“(iii) in consultation with the agency*
5 *that prosecuted the criminal offense under*
6 *clause (i), if the agency, in the sole discre-*
7 *tion of the agency, is willing to cooperate*
8 *with the Secretary, make all reasonable ef-*
9 *forts to provide each victim identified under*
10 *clause (ii) with written notice that the alien*
11 *is being considered for a waiver under this*
12 *paragraph, specifying in such notice that*
13 *the victim may—*

14 *“(I) take no further action;*

15 *“(II) request written notification*
16 *by the Secretary of any subsequent ap-*
17 *plication for waiver filed by the crimi-*
18 *nal alien under this paragraph and of*
19 *the final determination of the Sec-*
20 *retary regarding such application; or*

21 *“(III) not later than 60 days after*
22 *the date on which the victim receives*
23 *written notice under this clause, re-*
24 *quest a consultation with the Secretary*
25 *relating to whether the application of*

1 *the offender should be granted and if*
2 *the victim cannot be located or if no*
3 *response is received from the victim*
4 *within the designated time period, the*
5 *Secretary shall proceed with adjudica-*
6 *tion of the application; and*

7 *“(iv) at the request of a victim under*
8 *clause (iii), consult with the victim to deter-*
9 *mine whether or not the Secretary should,*
10 *in the case of an alien who is determined*
11 *under clause (i) to have a conviction for*
12 *any criminal offense, exercise waiver au-*
13 *thority for an alien described under sub-*
14 *paragraph (B), or grant the application of*
15 *an alien described under subparagraph (C).*

16 *“(E) CRIME VICTIMS’ RIGHT TO INTERVEN-*
17 *TION.—In addition to the victim notification*
18 *and consultation provided for in subparagraph*
19 *(D), the Secretary shall allow the victim of a*
20 *criminal alien described under subparagraph*
21 *(B) or (C) to request consultation regarding, or*
22 *notice of, any application for waiver filed by the*
23 *criminal alien under this paragraph, including*
24 *the final determination of the Secretary regard-*
25 *ing such application.*

1 “(F) *CONFIDENTIALITY PROTECTIONS FOR*
2 *CRIME VICTIMS.—The Secretary and the Attor-*
3 *ney General may not make an adverse deter-*
4 *mination of admissibility or deportability of any*
5 *alien who is a victim and not lawfully present*
6 *in the United States based solely on information*
7 *supplied or derived in the process of identifica-*
8 *tion, notification, or consultation under this*
9 *paragraph.*

10 “(G) *REPORTS REQUIRED.—Not later than*
11 *September 30 of each fiscal year in which the*
12 *Secretary exercises authority under this para-*
13 *graph to rule upon the application of a criminal*
14 *offender allowed under subparagraph (C), the*
15 *Secretary shall submit to the Committee on the*
16 *Judiciary of the Senate and the Committee on*
17 *the Judiciary of the House of Representatives a*
18 *report detailing the execution of the victim iden-*
19 *tification and notification process required*
20 *under subparagraph (D), which shall include—*

21 “(i) *the total number of criminal of-*
22 *fenders who have filed an application under*
23 *subparagraph (C) and the crimes committed*
24 *by such offenders;*

1 “(ii) the total number of criminal of-
2 fenders whose application under subpara-
3 graph (C) has been granted and the crimes
4 committed by such offenders; and

5 “(iii) the total number of victims of
6 criminal offenders under clause (ii) who
7 were not provided with written notice of the
8 offender’s application and the crimes com-
9 mitted against the victims.

10 “(H) DEFINITION.—In this paragraph, the
11 term ‘victim’ has the meaning given the term in
12 section 503(e) of the Victims’ Rights and Restitu-
13 tion Act of 1990 (42 U.S.C. 10607(e)).

14 “(7) SUSPENSION OF REMOVAL DURING APPLICA-
15 TION PERIOD.—

16 “(A) PROTECTION FROM DETENTION OR RE-
17 MOVAL.—A registered provisional immigrant
18 may not be detained by the Secretary or removed
19 from the United States, unless—

20 “(i) the Secretary determines that—

21 “(I) such alien is, or has become,
22 ineligible for registered provisional im-
23 migrant status under subsection (b)(3);
24 or

1 “(II) *the alien’s registered provi-*
2 *sional immigrant status has been re-*
3 *voked under subsection (d)(2).*

4 “(B) *ALIENS IN REMOVAL PROCEEDINGS.—*
5 *Notwithstanding any other provision of this*
6 *Act—*

7 “(i) *if the Secretary determines that an*
8 *alien, during the period beginning on the*
9 *date of the enactment of this section and*
10 *ending on the last day of the application*
11 *period described in paragraph (3), is in re-*
12 *moval, deportation, or exclusion proceedings*
13 *before the Executive Office for Immigration*
14 *Review and is prima facie eligible for reg-*
15 *istered provisional immigrant status under*
16 *this section—*

17 “(I) *the Secretary shall provide*
18 *the alien with the opportunity to file*
19 *an application for such status; and*

20 “(II) *upon motion by the Sec-*
21 *retary and with the consent of the*
22 *alien or upon motion by the alien, the*
23 *Executive Office for Immigration Re-*
24 *view shall—*

1 *migration Review, upon consent of the*
2 *alien, shall—*

3 “(aa) *terminate such pro-*
4 *ceedings without prejudice to fu-*
5 *ture proceedings on any basis;*
6 *and*

7 “(bb) *permit the alien a rea-*
8 *sonable opportunity to apply for*
9 *such status.*

10 “(C) *TREATMENT OF CERTAIN ALIENS.—*

11 “(i) *IN GENERAL.—If an alien who*
12 *meets the eligibility requirements set forth*
13 *in subsection (b) is present in the United*
14 *States and has been ordered excluded, de-*
15 *ported, or removed, or ordered to depart vol-*
16 *untarily from the United States under any*
17 *provision of this Act—*

18 “(I) *notwithstanding such order*
19 *or section 241(a)(5), the alien may*
20 *apply for registered provisional immi-*
21 *grant status under this section; and*

22 “(II) *if the alien is granted such*
23 *status, the alien shall file a motion to*
24 *reopen the exclusion, deportation, re-*
25 *moval, or voluntary departure order,*

1 *which motion shall be granted unless 1*
2 *or more of the grounds of ineligibility*
3 *is established by clear and convincing*
4 *evidence.*

5 “(i) *LIMITATIONS ON MOTIONS TO RE-*
6 *OPEN.—The limitations on motions to re-*
7 *open set forth in section 240(c)(7) shall not*
8 *apply to motions filed under clause (i)(II).*

9 “(D) *PERIOD PENDING ADJUDICATION OF*
10 *APPLICATION.—*

11 “(i) *IN GENERAL.—During the period*
12 *beginning on the date on which an alien*
13 *applies for registered provisional immigrant*
14 *status under paragraph (1) and the date on*
15 *which the Secretary makes a final decision*
16 *regarding such application, the alien—*

17 “(I) *may receive advance parole*
18 *to reenter the United States if urgent*
19 *humanitarian circumstances compel*
20 *such travel;*

21 “(II) *may not be detained by the*
22 *Secretary or removed from the United*
23 *States unless the Secretary makes a*
24 *prima facie determination that such*
25 *alien is, or has become, ineligible for*

1 “(iv) *EFFECT OF DEPARTURE.*—*Sec-*
2 *tion 101(g) shall not apply to an alien*
3 *granted—*

4 “(I) *advance parole under clause*
5 *(i)(I) to reenter the United States; or*

6 “(II) *registered provisional immi-*
7 *grant status.*

8 “(8) *SECURITY AND LAW ENFORCEMENT CLEAR-*
9 *ANCES.*—

10 “(A) *BIOMETRIC AND BIOGRAPHIC DATA.*—
11 *The Secretary may not grant registered provi-*
12 *sional immigrant status to an alien or an alien*
13 *dependent spouse or child under this section un-*
14 *less such alien submits biometric and biographic*
15 *data in accordance with procedures established*
16 *by the Secretary.*

17 “(B) *ALTERNATIVE PROCEDURES.*—*The*
18 *Secretary shall provide an alternative procedure*
19 *for applicants who cannot provide the biometric*
20 *data required under subparagraph (A) because of*
21 *a physical impairment.*

22 “(C) *CLEARANCES.*—

23 “(i) *DATA COLLECTION.*—*The Sec-*
24 *retary shall collect, from each alien apply-*
25 *ing for status under this section, biometric,*

1 *biographic, and other data that the Sec-*
2 *retary determines to be appropriate—*

3 *“(I) to conduct national security*
4 *and law enforcement clearances; and*

5 *“(II) to determine whether there*
6 *are any national security or law en-*
7 *forcement factors that would render an*
8 *alien ineligible for such status.*

9 *“(ii) ADDITIONAL SECURITY SCREEN-*
10 *ING.—The Secretary, in consultation with*
11 *the Secretary of State and other interagency*
12 *partners, shall conduct an additional secu-*
13 *rity screening upon determining, in the*
14 *Secretary’s opinion based upon information*
15 *related to national security, that an alien*
16 *or alien dependent spouse or child is or was*
17 *a citizen or long-term resident of a region*
18 *or country known to pose a threat, or that*
19 *contains groups or organizations that pose*
20 *a threat, to the national security of the*
21 *United States.*

22 *“(iii) PREREQUISITE.—The required*
23 *clearances and screenings described in*
24 *clauses (i)(I) and (ii) shall be completed be-*

1 *fore the alien may be granted registered*
2 *provisional immigrant status.*

3 “(9) *DURATION OF STATUS AND EXTENSION.*—

4 “(A) *IN GENERAL.*—*The initial period of*
5 *authorized admission for a registered provisional*
6 *immigrant—*

7 “(i) *shall remain valid for 6 years un-*
8 *less revoked pursuant to subsection (d)(2);*
9 *and*

10 “(ii) *may be extended for additional 6-*
11 *year terms if—*

12 “(I) *the alien remains eligible for*
13 *registered provisional immigrant sta-*
14 *tus;*

15 “(II) *the alien meets the employ-*
16 *ment requirements set forth in sub-*
17 *paragraph (B);*

18 “(III) *the alien has successfully*
19 *passed background checks that are*
20 *equivalent to the background checks de-*
21 *scribed in section 245D(b)(1)(E); and*

22 “(IV) *such status was not revoked*
23 *by the Secretary for any reason.*

24 “(B) *EMPLOYMENT OR EDUCATION RE-*
25 *QUIREMENT.*—*Except as provided in subpara-*

1 *graphs (D) and (E) of section 245C(b)(3), an*
2 *alien may not be granted an extension of reg-*
3 *istered provisional immigrant status under this*
4 *paragraph unless the alien establishes that, dur-*
5 *ing the alien's period of status as a registered*
6 *provisional immigrant, the alien—*

7 *“(i)(I) was regularly employed*
8 *throughout the period of admission as a reg-*
9 *istered provisional immigrant, allowing for*
10 *brief periods lasting not more than 60 days;*
11 *and*

12 *“(II) is not likely to become a public*
13 *charge (as determined under section*
14 *212(a)(4)); or*

15 *“(ii) is able to demonstrate average in-*
16 *come or resources that are not less than 100*
17 *percent of the Federal poverty level through-*
18 *out the period of admission as a registered*
19 *provisional immigrant.*

20 *“(C) PAYMENT OF TAXES.—An applicant*
21 *may not be granted an extension of registered*
22 *provisional immigrant status under subpara-*
23 *graph (A)(ii) unless the applicant has satisfied*
24 *any applicable Federal tax liability in accord-*
25 *ance with paragraph (2).*

1 “(10) *FEEES AND PENALTIES.*—

2 “*(A) STANDARD PROCESSING FEE.*—

3 “*(i) IN GENERAL.*—*Aliens who are 16*
4 *years of age or older and are applying for*
5 *registered provisional immigrant status*
6 *under paragraph (1), or for an extension of*
7 *such status under paragraph (9)(A)(ii),*
8 *shall pay a processing fee to the Depart-*
9 *ment of Homeland Security in an amount*
10 *determined by the Secretary.*

11 “*(ii) RECOVERY OF COSTS.*—*The proc-*
12 *essing fee authorized under clause (i) shall*
13 *be set at a level that is sufficient to recover*
14 *the full costs of processing the application,*
15 *including any costs incurred—*

16 “*(I) to adjudicate the application;*

17 “*(II) to take and process bio-*
18 *metrics;*

19 “*(III) to perform national secu-*
20 *rity and criminal checks, including ad-*
21 *judication;*

22 “*(IV) to prevent and investigate*
23 *fraud; and*

24 “*(V) to administer the collection*
25 *of such fee.*

1 “(iii) *AUTHORITY TO LIMIT FEES.—*

2 *The Secretary, by regulation, may—*

3 “(I) *limit the maximum proc-*
4 *essing fee payable under this subpara-*
5 *graph by a family, including spouses*
6 *and unmarried children younger than*
7 *21 years of age; and*

8 “(II) *exempt defined classes of in-*
9 *dividuals, including individuals de-*
10 *scribed in section 245B(c)(13), from*
11 *the payment of the fee authorized*
12 *under clause (i).*

13 “(B) *DEPOSIT AND USE OF PROCESSING*
14 *FEES.—Fees collected under subparagraph*
15 *(A)(i)—*

16 “(i) *shall be deposited into the Immig-*
17 *ration Examinations Fee Account pursu-*
18 *ant to section 286(m); and*

19 “(ii) *shall remain available until ex-*
20 *pended pursuant to section 286(n).*

21 “(C) *PENALTY.—*

22 “(i) *PAYMENT.—In addition to the*
23 *processing fee required under subparagraph*
24 *(A), aliens not described in section*
25 *245D(b)(A)(ii) who are 21 years of age or*

1 “(i) 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 extension
3 of such authorized admission, serve as a
4 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 for
13 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 Secretary
18 determines that an alien who was granted Deferred
19 Action for Childhood Arrivals (referred to in this
20 paragraph as ‘DACA’) pursuant to the Secretary’s
21 memorandum of June 15, 2012, has engaged in con-
22 duct since the alien was granted DACA that would
23 make the alien ineligible for registered provisional
24 immigrant status, the Secretary may grant such sta-
25 tus to the alien if renewed national security and law

1 *enforcement clearances have been completed on behalf*
2 *of the alien.*

3 “(d) *TERMS AND CONDITIONS OF REGISTERED PROVI-*
4 *SIONAL 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 United*
11 *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 may*
15 *be admitted, if otherwise admissible, upon re-*
16 *turning to the United States without having to*
17 *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 the*
7 *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 alien*
12 *is not inadmissible under subparagraph*
13 *(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 admitted*
18 *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 alien*
22 *granted registered provisional immigrant sta-*
23 *tus—*

24 “(i) *is lawfully admitted to the United*
25 *States; and*

1 “(i) 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 alien—

11 “(i) no longer meets the eligibility re-
12 quirements set forth in subsection (b);

13 “(ii) knowingly used documentation
14 issued under this section for an unlawful or
15 fraudulent purpose;

16 “(iii) is convicted of fraudulently
17 claiming or receiving a Federal means-test-
18 ed benefit (as defined and implemented in
19 section 403 of the Personal Responsibility
20 and Work Opportunity Reconciliation Act
21 of 1996 (8 U.S.C. 1613)) after being grant-
22 ed registered provisional immigrant status;
23 or

24 “(iv) was absent from the United
25 States—

1 “(I) for any single period longer
2 than 180 days in violation of the re-
3 quirements set forth in paragraph
4 (1)(B)(ii); or

5 “(II) for more than 180 days in
6 the aggregate during any calendar
7 year, unless the alien’s failure to time-
8 ly return was due to extenuating cir-
9 cumstances beyond the alien’s control.

10 “(B) *ADDITIONAL EVIDENCE.*—In deter-
11 mining whether to revoke an alien’s status under
12 subparagraph (A), the Secretary may require the
13 alien—

14 “(i) to submit additional evidence; or

15 “(ii) to appear for an interview.

16 “(C) *INVALIDATION OF DOCUMENTATION.*—
17 If an alien’s registered provisional immigrant
18 status is revoked under subparagraph (A), any
19 documentation issued by the Secretary to such
20 alien under subsection (c)(12) shall automati-
21 cally be rendered invalid for any purpose except
22 for departure from the United States.

23 “(3) *INELIGIBILITY FOR PUBLIC BENEFITS.*—

24 “(A) *IN GENERAL.*—An alien who has been
25 granted registered provisional immigrant status

1 *under this section is not eligible for any Federal*
2 *means-tested public benefit (as defined and im-*
3 *plemented in section 403 of the Personal Respon-*
4 *sibility and Work Opportunity Reconciliation*
5 *Act of 1996 (8 U.S.C. 1613)).*

6 “(B) *AUDITS.—The Secretary of Health*
7 *and Human Services shall conduct regular au-*
8 *ditions to ensure that registered provisional immi-*
9 *grants are not fraudulently receiving any of the*
10 *benefits described in subparagraph (A).*

11 “(4) *TREATMENT OF REGISTERED PROVISIONAL*
12 *IMMIGRANTS.—A noncitizen granted registered provi-*
13 *sional immigrant status under this section shall be*
14 *considered lawfully present in the United States for*
15 *all purposes while such noncitizen remains in such*
16 *status, except that the noncitizen—*

17 “(A) *is not entitled to the premium assist-*
18 *ance tax credit authorized under section 36B of*
19 *the Internal Revenue Code of 1986 for his or her*
20 *coverage;*

21 “(B) *shall be subject to the rules applicable*
22 *to individuals not lawfully present that are set*
23 *forth in subsection (e) of such section;*

24 “(C) *shall be subject to the rules applicable*
25 *to individuals not lawfully present that are set*

1 *forth in section 1402(e) of the Patient Protection*
2 *and Affordable Care Act (42 U.S.C. 18071); and*

3 *“(D) shall be subject to the rules applicable*
4 *to individuals not lawfully present set forth in*
5 *section 5000A(d)(3) of the Internal Revenue Code*
6 *of 1986.*

7 *“(5) ASSIGNMENT OF SOCIAL SECURITY NUM-*
8 *BER.—*

9 *“(A) IN GENERAL.—The Commissioner of*
10 *Social Security, in coordination with the Sec-*
11 *retary, shall implement a system to allow for the*
12 *assignment of a Social Security number and the*
13 *issuance of a Social Security card to each alien*
14 *who has been granted registered provisional im-*
15 *migrant status under this section.*

16 *“(B) USE OF INFORMATION.—The Secretary*
17 *shall provide the Commissioner of Social Secu-*
18 *rity with information from the applications filed*
19 *by aliens granted registered provisional immi-*
20 *grant status under this section and such other*
21 *information as the Commissioner determines to*
22 *be necessary to assign a Social Security account*
23 *number to such aliens. The Commissioner may*
24 *use information received from the Secretary*
25 *under this subparagraph to assign Social Secu-*

1 *rity account numbers to such aliens and to ad-*
2 *minister the programs of the Social Security Ad-*
3 *ministration. The Commissioner may maintain,*
4 *use, and disclose such information only as per-*
5 *mitted under section 552a of title 5, United*
6 *States Code (commonly known as the Privacy*
7 *Act of 1974) and other applicable Federal laws.*

8 “(e) *DISSEMINATION OF INFORMATION ON REG-*
9 *ISTERED PROVISIONAL IMMIGRANT PROGRAM.—As soon as*
10 *practicable after the date of the enactment of the Border*
11 *Security, Economic Opportunity, and Immigration Mod-*
12 *ernization Act, the Secretary, in cooperation with entities*
13 *approved by the Secretary, and in accordance with a plan*
14 *adopted by the Secretary, shall broadly disseminate, in the*
15 *most common languages spoken by aliens who would qual-*
16 *ify for registered provisional immigrant status under this*
17 *section, to television, radio, print, and social media to*
18 *which such aliens would likely have access—*

19 *“(1) the procedures for applying for such status;*

20 *“(2) the terms and conditions of such status; and*

21 *“(3) the eligibility requirements for such sta-*

22 *tus.”.*

23 (b) *ENLISTMENT IN THE ARMED FORCES.—Section*
24 *504(b)(1) of title 10, United States Code, is amended by*
25 *adding at the end the following:*

1 “(D) *An alien who has been granted registered*
2 *provisional immigrant status under section 245B of*
3 *the Immigration and Nationality Act.*”.

4 **SEC. 2102. ADJUSTMENT OF STATUS OF REGISTERED PRO-**
5 **VISIONAL IMMIGRANTS.**

6 (a) *IN GENERAL.*—Chapter 5 of title II (8 U.S.C. 1255
7 *et seq.*) is amended by inserting after section 245B, as
8 added by section 2101 of this title, the following:

9 **“SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PRO-**
10 **VISIONAL IMMIGRANTS.**

11 “(a) *IN GENERAL.*—Subject to section 245E(d) and
12 *section 2302(c)(3) of the Border Security, Economic Oppor-*
13 *tunity, and Immigration Modernization Act, the Secretary*
14 *may adjust the status of a registered provisional immigrant*
15 *to that of an alien lawfully admitted for permanent resi-*
16 *dence if the registered provisional immigrant satisfies the*
17 *eligibility requirements set forth in subsection (b).*

18 “(b) *ELIGIBILITY REQUIREMENTS.*—

19 “(1) *REGISTERED PROVISIONAL IMMIGRANT STA-*
20 *TUS.*—

21 “(A) *IN GENERAL.*—The alien was granted
22 *registered provisional immigrant status under*
23 *section 245B and remains eligible for such sta-*
24 *tus.*

1 “(B) *CONTINUOUS PHYSICAL PRESENCE.*—
2 *The alien establishes, to the satisfaction of the*
3 *Secretary, that the alien was not continuously*
4 *absent from the United States for more than 180*
5 *days in any calendar year during the period of*
6 *admission as a registered provisional immi-*
7 *grant, unless the alien’s absence was due to ex-*
8 *tenuating circumstances beyond the alien’s con-*
9 *trol.*

10 “(C) *MAINTENANCE OF WAIVERS OF INAD-*
11 *MISSIBILITY.*—*The grounds of inadmissibility set*
12 *forth in section 212(a) that were previously*
13 *waived for the alien or made inapplicable under*
14 *section 245B(b) shall not apply for purposes of*
15 *the alien’s adjustment of status under this sec-*
16 *tion.*

17 “(D) *PENDING REVOCATION PRO-*
18 *CEEDINGS.*—*If the Secretary has notified the ap-*
19 *plicant that the Secretary intends to revoke the*
20 *applicant’s registered provisional immigrant sta-*
21 *tus under section 245B(d)(2)(A), the Secretary*
22 *may not approve an application for adjustment*
23 *of status under this section unless the Secretary*
24 *makes a final determination not to revoke the*
25 *applicant’s status.*

1 “(2) *PAYMENT OF TAXES.*—

2 “(A) *IN GENERAL.*—*An applicant may not*
3 *file an application for adjustment of status*
4 *under this section unless the applicant has satis-*
5 *fied any applicable Federal tax liability.*

6 “(B) *DEFINITION OF APPLICABLE FEDERAL*
7 *TAX LIABILITY.*—*In subparagraph (A), the term*
8 *‘applicable Federal tax liability’ means all Fed-*
9 *eral income taxes assessed in accordance with*
10 *section 6203 of the Internal Revenue Code of*
11 *1986 since the date on which the applicant was*
12 *authorized to work in the United States as a reg-*
13 *istered provisional immigrant under section*
14 *245B(a).*

15 “(C) *COMPLIANCE.*—*The applicant may*
16 *demonstrate compliance with subparagraph (A)*
17 *by submitting such documentation as the Sec-*
18 *retary, in consultation with the Secretary of the*
19 *Treasury, may require by regulation.*

20 “(3) *EMPLOYMENT REQUIREMENT.*—

21 “(A) *IN GENERAL.*—*Except as provided in*
22 *subparagraphs (D) and (E), an alien applying*
23 *for adjustment of status under this section shall*
24 *establish that, during his or her period of status*

1 *as a registered provisional immigrant, he or*
2 *she—*

3 “(i)(I) *was regularly employed*
4 *throughout the period of admission as a reg-*
5 *istered provisional immigrant, allowing for*
6 *brief periods lasting not more than 60 days;*
7 *and*

8 “(II) *is not likely to become a public*
9 *charge (as determined under section*
10 *212(a)(4)); or*

11 “(ii) *can demonstrate average income*
12 *or resources that are not less than 125 per-*
13 *cent of the Federal poverty level throughout*
14 *the period of admission as a registered pro-*
15 *visional immigrant.*

16 “(B) *EVIDENCE OF EMPLOYMENT.—*

17 “(i) *DOCUMENTS.—An alien may sat-*
18 *isfy the employment requirement under sub-*
19 *paragraph (A)(i) by submitting, to the Sec-*
20 *retary, records that—*

21 “(I) *establish, by the preponder-*
22 *ance of the evidence, compliance with*
23 *such employment requirement; and*

24 “(II) *have been maintained by the*
25 *Social Security Administration, the*

1 “(bb) *the nature and dura-*
2 *tion of the relationship between*
3 *the affiant and the alien; and*

4 “(cc) *other verification or in-*
5 *formation;*

6 “(VI) *remittance records; and*

7 “(VII) *school records from institu-*
8 *tions described in subparagraph (D).*

9 “(iii) *ADDITIONAL DOCUMENTS AND*
10 *RESTRICTIONS.—The Secretary may—*

11 “(I) *designate additional docu-*
12 *ments that may be used to establish*
13 *compliance with the requirement under*
14 *subparagraph (A); and*

15 “(II) *set such terms and condi-*
16 *tions on the use of affidavits as may be*
17 *necessary to verify and confirm the*
18 *identity of any affiant or to otherwise*
19 *prevent fraudulent submissions.*

20 “(C) *SATISFACTION OF EMPLOYMENT RE-*
21 *QUIREMENT.—An alien may not be required to*
22 *satisfy the employment requirements under this*
23 *section with a single employer.*

24 “(D) *EDUCATION PERMITTED.—An alien*
25 *may satisfy the requirement under subparagraph*

1 (A), in whole or in part, by providing evidence
2 of full-time attendance at—

3 “(i) an institution of higher education
4 (as defined in section 102(a) of the Higher
5 Education Act of 1965 (20 U.S.C.
6 1002(a));

7 “(ii) a secondary school, including a
8 public secondary school (as defined in sec-
9 tion 9101 of the Elementary and Secondary
10 Education Act of 1965 (20 U.S.C. 7801));

11 “(iii) an education, literacy, or career
12 and technical training program (including
13 vocational training) that is designed to lead
14 to placement in postsecondary education,
15 job training, or employment through which
16 the alien is working toward such placement;
17 or

18 “(iv) an education program assisting
19 students either in obtaining a high school
20 equivalency diploma, certificate, or its rec-
21 ognized equivalent under State law (includ-
22 ing a certificate of completion, certificate of
23 attendance, or alternate award), or in pass-
24 ing a General Educational Development
25 exam or other equivalent State-authorized

1 *exam or completed other applicable State*
2 *requirements for high school equivalency.*

3 “(E) *AUTHORIZATION OF EXCEPTIONS AND*
4 *WAIVERS.—*

5 “(i) *EXCEPTIONS BASED ON AGE OR*
6 *DISABILITY.—The employment and edu-*
7 *cation requirements under this paragraph*
8 *shall not apply to any alien who—*

9 “(I) *is younger than 21 years of*
10 *age on the date on which the alien files*
11 *an application for the first extension of*
12 *the initial period of authorized admis-*
13 *sion as a registered provisional immi-*
14 *grant;*

15 “(II) *is at least 60 years of age on*
16 *the date on which the alien files an ap-*
17 *plication for an extension of registered*
18 *provisional immigrant status or at*
19 *least 65 years of age on the date on*
20 *which the alien’s application for ad-*
21 *justment of status is filed under this*
22 *section; or*

23 “(III) *has a physical or mental*
24 *disability (as defined in section 3(2) of*
25 *the Americans with Disabilities Act of*

1 1990 (42 U.S.C. 12102(2))) or as a re-
2 sult of pregnancy if such condition is
3 evidenced by the submission of docu-
4 mentation prescribed by the Secretary.

5 “(ii) *FAMILY EXCEPTIONS.*—The em-
6 ployment and education requirements under
7 this paragraph shall not apply to any alien
8 who is a dependent registered provisional
9 immigrant under subsection (b)(5).

10 “(iii) *TEMPORARY EXCEPTIONS.*—The
11 employment and education requirements
12 under this paragraph shall not apply dur-
13 ing any period during which the alien—

14 “(I) was on medical leave, mater-
15 nity leave, or other employment leave
16 authorized by Federal law, State law,
17 or the policy of the employer;

18 “(II) is or was the primary care-
19 taker of a child or another person who
20 requires supervision or is unable to
21 care for himself or herself; or

22 “(III) was unable to work due to
23 circumstances outside the control of the
24 alien.

1 “(iv) *WAIVER.—The Secretary may*
2 *waive the employment or education require-*
3 *ments under this paragraph with respect to*
4 *any individual alien who demonstrates ex-*
5 *treme hardship to himself or herself or to a*
6 *spouse, parent, or child who is a United*
7 *States citizen or lawful permanent resident.*

8 “(4) *ENGLISH SKILLS.—*

9 “(A) *IN GENERAL.—Except as provided*
10 *under subparagraph (C), a registered provisional*
11 *immigrant who is 16 years of age or older shall*
12 *establish that he or she—*

13 “(i) *meets the requirements set forth in*
14 *section 312; or*

15 “(ii) *is satisfactorily pursuing a course*
16 *of study, pursuant to standards established*
17 *by the Secretary of Education, in consulta-*
18 *tion with the Secretary, to achieve an un-*
19 *derstanding of English and knowledge and*
20 *understanding of the history and Govern-*
21 *ment of the United States, as described in*
22 *section 312(a).*

23 “(B) *RELATION TO NATURALIZATION EXAM-*
24 *INATION.—A registered provisional immigrant*
25 *who demonstrates that he or she meets the re-*

1 *quirements set forth in section 312 may be con-*
2 *sidered to have satisfied such requirements for*
3 *purposes of becoming naturalized as a citizen of*
4 *the United States.*

5 “(C) *EXCEPTIONS.*—

6 “(i) *MANDATORY.*—*Subparagraph (A)*
7 *shall not apply to any person who is unable*
8 *to comply with the requirements under that*
9 *subparagraph because of a physical or de-*
10 *velopmental disability or mental impair-*
11 *ment.*

12 “(ii) *DISCRETIONARY.*—*The Secretary*
13 *may waive all or part of subparagraph (A)*
14 *for a registered provisional immigrant who*
15 *is 70 years of age or older on the date on*
16 *which an application is filed for adjustment*
17 *of status under this section.*

18 “(5) *MILITARY SELECTIVE SERVICE.*—*The alien*
19 *shall provide proof of registration under the Military*
20 *Selective Service Act (50 U.S.C. App. 451 et seq.), if*
21 *the alien is subject to such registration on or after the*
22 *date on which the alien’s application for registered*
23 *provisional immigrant status is granted.*

24 “(c) *APPLICATION PROCEDURES.*—

1 “(1) *IN GENERAL.*—Beginning on the date de-
2 scribed in paragraph (2), a registered provisional im-
3 migrant, or a registered provisional immigrant de-
4 pendent, who meets the eligibility requirements set
5 forth in subsection (b) may apply for adjustment of
6 status to that of an alien lawfully admitted for per-
7 manent residence by submitting an application to the
8 Secretary that includes the evidence required, by regu-
9 lation, to demonstrate the applicant’s eligibility for
10 such adjustment.

11 “(2) *BACK OF THE LINE.*—The status of a reg-
12 istered provisional immigrant may not be adjusted to
13 that of an alien lawfully admitted for permanent resi-
14 dence under this section until after the Secretary of
15 State certifies that immigrant visas have become
16 available for all approved petitions for immigrant
17 visas that were filed under sections 201 and 203 be-
18 fore the date of the enactment of the Border Security,
19 Economic Opportunity, and Immigration Moderniza-
20 tion Act.

21 “(3) *INTERVIEW.*—The Secretary may interview
22 applicants for adjustment of status under this section
23 to determine whether they meet the eligibility require-
24 ments set forth in subsection (b).

1 “(4) *SECURITY AND LAW ENFORCEMENT CLEAR-*
2 *ANCES.—The Secretary may not adjust the status of*
3 *a registered provisional immigrant under this section*
4 *until renewed national security and law enforcement*
5 *clearances have been completed with respect to the*
6 *registered provisional immigrant, to the satisfaction*
7 *of the Secretary.*

8 “(5) *FEEES AND PENALTIES.—*

9 “(A) *PROCESSING FEES.—*

10 “(i) *IN GENERAL.—The Secretary shall*
11 *impose a processing fee on applicants for*
12 *adjustment of status under this section at a*
13 *level sufficient to recover the full cost of*
14 *processing such applications, including*
15 *costs associated with—*

16 “(I) *adjudicating the applica-*
17 *tions;*

18 “(II) *taking and processing bio-*
19 *metrics;*

20 “(III) *performing national secu-*
21 *rity and criminal checks, including ad-*
22 *judication;*

23 “(IV) *preventing and inves-*
24 *tigating fraud; and*

1 “(V) *the administration of the fees*
2 *collected.*

3 “(ii) *AUTHORITY TO LIMIT FEES.—The*
4 *Secretary, by regulation, may—*

5 “(I) *limit the maximum proc-*
6 *essing fee payable under this subpara-*
7 *graph by a family, including spouses*
8 *and children; and*

9 “(II) *exempt other defined classes*
10 *of individuals from the payment of the*
11 *fee authorized under clause (i).*

12 “(iii) *DEPOSIT AND USE OF FEES.—*
13 *Fees collected under this subparagraph—*

14 “(I) *shall be deposited into the*
15 *Immigration Examinations Fee Ac-*
16 *count pursuant to section 286(m); and*

17 “(II) *shall remain available until*
18 *expended pursuant to section 286(n).*

19 “(B) *PENALTIES.—*

20 “(i) *IN GENERAL.—In addition to the*
21 *processing fee required under subparagraph*
22 *(A) and the penalty required under section*
23 *245B(c)(6)(D), an alien who was 21 years*
24 *of age or older on the date on which the*
25 *Border Security, Economic Opportunity,*

1 *and Immigration Modernization Act was*
2 *originally introduced in the Senate and is*
3 *filing an application for adjustment of sta-*
4 *tus under this section shall pay a \$1,000*
5 *penalty to the Secretary unless the alien*
6 *meets the requirements under section*
7 *245D(b).*

8 “(ii) *INSTALLMENTS.*—*The Secretary*
9 *shall establish a process for collecting pay-*
10 *ments required under clause (i) through*
11 *periodic installments.*

12 “(iii) *DEPOSIT, ALLOCATION, AND*
13 *SPENDING OF PENALTIES.*—*Penalties col-*
14 *lected under this subparagraph—*

15 “(I) *shall be deposited into the*
16 *Comprehensive Immigration Trust*
17 *Fund established under section 6(a)(1)*
18 *of the Border Security, Economic Op-*
19 *portunity, and Immigration Mod-*
20 *ernization Act; and*

21 “(II) *may be used for the purposes*
22 *set forth in section 6(a)(3)(B) of such*
23 *Act.”.*

24 (b) *LIMITATION ON REGISTERED PROVISIONAL IMMI-*
25 *GRANTS.*—*An alien admitted as a registered provisional*

1 *immigrant under section 245B of the Immigration and Na-*
2 *tionality Act, as added by subsection (a), may only adjust*
3 *status to an alien lawfully admitted for permanent resident*
4 *status under section 245C or 245D of such Act or section*
5 *2302.*

6 (c) *NATURALIZATION.*—*Section 319 (8 U.S.C. 1430) is*
7 *amended—*

8 (1) *in the section heading, by striking “AND*
9 ***EMPLOYEES OF CERTAIN NONPROFIT ORGANI-***
10 ***ZATIONS” and inserting “, EMPLOYEES OF CER-***
11 ***TAIN NONPROFIT ORGANIZATIONS, AND OTHER***
12 ***LONG-TERM LAWFUL RESIDENTS”;* and**

13 (2) *by adding at the end the following:*

14 “(f) *Any lawful permanent resident who was lawfully*
15 *present in the United States and eligible for work author-*
16 *ization for not less than 10 years before becoming a lawful*
17 *permanent resident may be naturalized upon compliance*
18 *with all the requirements under this title except the provi-*
19 *sions of section 316(a)(1) if such person, immediately pre-*
20 *ceding the date on which the person filed an application*
21 *for naturalization—*

22 “(1) *has resided continuously within the United*
23 *States, after being lawfully admitted for permanent*
24 *residence, for at least 3 years;*

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1 “(2) during the 3-year period immediately pre-
2 ceding such filing date, has been physically present in
3 the United States for periods totaling at least 50 per-
4 cent of such period; and

5 “(3) has resided within the State or in the juris-
6 diction of the U.S. Citizenship and Immigration
7 Services field office in the United States in which the
8 applicant filed such application for at least 3
9 months.”.

10 **SEC. 2103. THE DREAM ACT.**

11 (a) *SHORT TITLE.*—This section may be cited as the
12 “Development, Relief, and Education for Alien Minors Act
13 of 2013” or the “DREAM Act 2013”.

14 (b) *ADJUSTMENT OF STATUS FOR CERTAIN ALIENS*
15 *WHO ENTERED THE UNITED STATES AS CHILDREN.*—
16 Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended
17 by inserting after section 245C, as added by section 2102
18 of this title, the following:

19 **“SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS**
20 **WHO ENTERED THE UNITED STATES AS CHIL-**
21 **DREN.**

22 “(a) *DEFINITIONS.*—In this section:

23 “(1) *INSTITUTION OF HIGHER EDUCATION.*—The
24 term ‘institution of higher education’ has the meaning
25 given such term in section 102 of the Higher Edu-

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1 *cation Act of 1965 (20 U.S.C. 1002), except that the*
2 *term does not include institutions described in sub-*
3 *section (a)(1)(C) of such section.*

4 “(2) *SECRETARY.*—*The term ‘Secretary’ means*
5 *the Secretary of Homeland Security.*

6 “(3) *UNIFORMED SERVICES.*—*The term ‘Uni-*
7 *formed Services’ has the meaning given the term ‘uni-*
8 *formed services’ in section 101(a)(5) of title 10,*
9 *United States Code.*

10 “(b) *ADJUSTMENT OF STATUS FOR CERTAIN ALIENS*
11 *WHO ENTERED THE UNITED STATES AS CHILDREN.*—

12 “(1) *REQUIREMENTS.*—

13 “(A) *IN GENERAL.*—*The Secretary may ad-*
14 *just the status of a registered provisional immi-*
15 *grant to the status of a lawful permanent resi-*
16 *dent if the immigrant demonstrates that he or*
17 *she—*

18 “(i) *has been a registered provisional*
19 *immigrant for at least 5 years;*

20 “(ii) *was younger than 16 years of age*
21 *on the date on which the alien initially en-*
22 *tered the United States;*

23 “(iii) *has earned a high school di-*
24 *ploma, a commensurate alternative award*
25 *from a public or private high school or sec-*

1 *ondary school, or has obtained a general*
2 *education development certificate recognized*
3 *under State law, or a high school equiva-*
4 *lency diploma in the United States;*

5 *“(iv)(I) has acquired a degree from an*
6 *institution of higher education or has com-*
7 *pleted at least 2 years, in good standing, in*
8 *a program for a bachelor’s degree or higher*
9 *degree in the United States; or*

10 *“(II) has served in the Uniformed*
11 *Services for at least 4 years and, if dis-*
12 *charged, received an honorable discharge;*
13 *and*

14 *“(v) has provided a list of each sec-*
15 *ondary school (as that term is defined in*
16 *section 9101 of the Elementary and Sec-*
17 *ondary Education Act of 1965 (20 U.S.C.*
18 *7801)) that the alien attended in the United*
19 *States.*

20 *“(B) HARDSHIP EXCEPTION.—*

21 *“(i) IN GENERAL.—The Secretary may*
22 *adjust the status of a registered provisional*
23 *immigrant to the status of a lawful perma-*
24 *nent resident if the alien—*

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1 “(I) satisfies the requirements
2 under clauses (i), (ii), (iii), and (v) of
3 subparagraph (A); and

4 “(II) demonstrates compelling cir-
5 cumstances for the inability to satisfy
6 the requirement under subparagraph
7 (A)(iv).

8 “(C) CITIZENSHIP REQUIREMENT.—

9 “(i) IN GENERAL.—Except as provided
10 in clause (ii), the Secretary may not adjust
11 the status of an alien to lawful permanent
12 resident status under this section unless the
13 alien demonstrates that the alien satisfies
14 the requirements under section 312(a).

15 “(ii) EXCEPTION.—Clause (i) shall not
16 apply to an alien whose physical or devel-
17 opmental disability or mental impairment
18 prevents the alien from meeting the require-
19 ments such section.

20 “(D) SUBMISSION OF BIOMETRIC AND BIO-
21 GRAPHIC DATA.—The Secretary may not adjust
22 the status of an alien to lawful permanent resi-
23 dent status unless the alien—

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1 “(i) submits biometric and biographic
2 data, in accordance with procedures estab-
3 lished by the Secretary; or

4 “(ii) complies with an alternative pro-
5 cedure prescribed by the Secretary, if the
6 alien is unable to provide such biometric
7 data because of a physical impairment.

8 “(E) BACKGROUND CHECKS.—

9 “(i) REQUIREMENT FOR BACKGROUND
10 CHECKS.—The Secretary shall utilize bio-
11 metric, biographic, and other data that the
12 Secretary determines appropriate—

13 “(I) to conduct national security
14 and law enforcement background
15 checks of an alien applying for lawful
16 permanent resident status under this
17 section; and

18 “(II) to determine whether there is
19 any criminal, national security, or
20 other factor that would render the alien
21 ineligible for such status.

22 “(ii) COMPLETION OF BACKGROUND
23 CHECKS.—The Secretary may not adjust an
24 alien’s status to the status of a lawful per-
25 manent resident under this subsection until

1 *the national security and law enforcement*
2 *background checks required under clause (i)*
3 *have been completed with respect to the*
4 *alien, to the satisfaction of the Secretary.*

5 “(2) *APPLICATION FOR LAWFUL PERMANENT*
6 *RESIDENT STATUS.—*

7 “(A) *IN GENERAL.—A registered provisional*
8 *immigrant seeking lawful permanent resident*
9 *status shall file an application for such status in*
10 *such manner as the Secretary may require.*

11 “(B) *ADJUDICATION.—*

12 “(i) *IN GENERAL.—The Secretary shall*
13 *evaluate each application filed by a reg-*
14 *istered provisional immigrant under this*
15 *paragraph to determine whether the alien*
16 *meets the requirements under paragraph*
17 *(1).*

18 “(ii) *ADJUSTMENT OF STATUS IF FA-*
19 *VORABLE DETERMINATION.—If the Sec-*
20 *retary determines that the alien meets the*
21 *requirements under paragraph (1), the Sec-*
22 *retary shall notify the alien of such deter-*
23 *mination and adjust the status of the alien*
24 *to lawful permanent resident status, effec-*
25 *tive as of the date of such determination.*

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1 “(iii) *ADVERSE DETERMINATION.*—If
2 the Secretary determines that the alien does
3 not meet the requirements under paragraph
4 (1), the Secretary shall notify the alien of
5 such determination.

6 “(C) *DACA RECIPIENTS.*—The Secretary
7 may adopt streamlined procedures for applicants
8 for adjustment to lawful permanent resident sta-
9 tus under this section who were granted Deferred
10 Action for Childhood Arrivals pursuant to the
11 Secretary’s memorandum of June 15, 2012.

12 “(3) *TREATMENT FOR PURPOSES OF NATU-*
13 *RALIZATION.*—

14 “(A) *IN GENERAL.*—An alien granted law-
15 ful permanent resident status under this section
16 shall be considered, for purposes of title III—

17 “(i) to have been lawfully admitted for
18 permanent residence; and

19 “(ii) to have been in the United States
20 as an alien lawfully admitted to the United
21 States for permanent residence during the
22 period the alien was a registered provi-
23 sional immigrant.

24 “(B) *LIMITATION ON APPLICATION FOR NAT-*
25 *URALIZATION.*—An alien may not apply for nat-

1 *uralization while the alien is in registered provi-*
2 *sional immigrant status, except for an alien de-*
3 *scribed in paragraph (1)(A)(ii) pursuant to sec-*
4 *tion 328 or 329.”.*

5 *(c) EXEMPTION FROM NUMERICAL LIMITATIONS.—*

6 *Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended—*

7 *(1) by redesignating subparagraph (E) as sub-*
8 *paragraph (F); and*

9 *(2) by inserting after subparagraph (D) the fol-*
10 *lowing:*

11 *“(E) Aliens whose status is adjusted to perma-*
12 *nent resident status under section 245C or 245D.”.*

13 *(d) RESTORATION OF STATE OPTION TO DETERMINE*
14 *RESIDENCY FOR PURPOSES OF HIGHER EDUCATION.—*

15 *(1) REPEAL.—Section 505 of the Illegal Immi-*
16 *gration Reform and Immigrant Responsibility Act of*
17 *1996 (8 U.S.C. 1623) is repealed.*

18 *(2) EFFECTIVE DATE.—The repeal under para-*
19 *graph (1) shall take effect as if included in the origi-*
20 *nal enactment of the Illegal Immigration Reform and*
21 *Immigrant Responsibility Act of 1996 (division C of*
22 *Public Law 104–208).*

23 *(e) NATURALIZATION.—Section 328(a) (8 U.S.C.*
24 *1439(a)) is amended by inserting “, without having been*

1 *lawfully admitted to the United States for permanent resi-*
2 *dent, and” after “naturalized”.*

3 (f) *LIMITATION ON FEDERAL STUDENT ASSISTANCE.—*
4 *Notwithstanding any other provision of law, aliens granted*
5 *registered provisional immigrant status and who initially*
6 *entered the United States before reaching 16 years of age*
7 *and aliens granted blue card status shall be eligible only*
8 *for the following assistance under title IV of the Higher*
9 *Education Act of 1965 (20 U.S.C. 1070 et seq.):*

10 (1) *Student loans under parts D and E of such*
11 *title IV (20 U.S.C. 1087a et seq. and 1087aa et seq.),*
12 *subject to the requirements of such parts.*

13 (2) *Federal work-study programs under part C*
14 *of such title IV (42 U.S.C. 2751 et seq.), subject to the*
15 *requirements of such part.*

16 (3) *Services under such title IV (20 U.S.C. 1070*
17 *et seq.), subject to the requirements for such services.*

18 **SEC. 2104. ADDITIONAL REQUIREMENTS.**

19 (a) *IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255*
20 *et seq.) is amended by inserting after section 245C, as added*
21 *by section 2102 of this title, the following:*

22 **“SEC. 245E. ADDITIONAL REQUIREMENTS RELATING TO**
23 **REGISTERED PROVISIONAL IMMIGRANTS AND**
24 **OTHERS.**

25 *“(a) DISCLOSURES.—*

1 “(1) *PROHIBITED DISCLOSURES.*—*Except as otherwise provided in this subsection, no officer or employee of any Federal agency may—*

2 “(A) *use the information furnished in an application for lawful status under section 245B, 245C, or 245D for any purpose other than to make a determination on any application by the alien for any immigration benefit or protection;*

3 “(B) *make any publication through which information furnished by any particular applicant can be identified; or*

4 “(C) *permit anyone other than the sworn officers, employees, and contractors of such agency or of another entity approved by the Secretary to examine any individual application for lawful status under section 245B, 245C, or 245D.*

5 “(2) *REQUIRED DISCLOSURES.*—*The Secretary shall provide the information furnished in an application filed under section 245B, 245C, or 245D and any other information derived from such furnished information to—*

6 “(A) *a law enforcement agency, intelligence agency, national security agency, a component of the Department of Homeland Security, court, or*

1 *grand jury, consistent with law, in connection*
2 *with—*

3 *“(i) a criminal investigation or pros-*
4 *ecution of any felony not related to the ap-*
5 *plicant’s immigration status; or*

6 *“(ii) a national security investigation*
7 *or prosecution; and*

8 *“(B) an official coroner for purposes of af-*
9 *firmatively identifying a deceased individual,*
10 *whether or not the death of such individual re-*
11 *sulted from a crime.*

12 *“(3) AUDITING AND EVALUATION OF INFORMA-*
13 *TION.—The Secretary may—*

14 *“(A) audit and evaluate information fur-*
15 *nished as part of any application filed under*
16 *section 245B, 245C, or 245D for purposes of*
17 *identifying immigration fraud or fraud schemes;*
18 *and*

19 *“(B) use any evidence detected by means of*
20 *audits and evaluations for purposes of inves-*
21 *tigating, prosecuting, referring for prosecution,*
22 *or denying or terminating immigration benefits.*

23 *“(b) EMPLOYER PROTECTIONS.—*

24 *“(1) USE OF EMPLOYMENT RECORDS.—Copies of*
25 *employment records or other evidence of employment*

1 *provided by an alien or by an alien’s employer in*
2 *support of an alien’s application for registered provi-*
3 *sional immigrant status under section 245B may not*
4 *be used in a civil or criminal prosecution or inves-*
5 *tigation of that employer under section 274A or the*
6 *Internal Revenue Code of 1986 for the prior unlawful*
7 *employment of that alien regardless of the adjudica-*
8 *tion of such application or reconsideration by the*
9 *Secretary of such alien’s prima facie eligibility deter-*
10 *mination. Employers that provide unauthorized*
11 *aliens with copies of employment records or other evi-*
12 *dence of employment pursuant to an application for*
13 *registered provisional immigrant status shall not be*
14 *subject to civil and criminal liability pursuant to sec-*
15 *tion 274A for employing such unauthorized aliens.*

16 “(2) *LIMIT ON APPLICABILITY.—The protections*
17 *for employers and aliens under paragraph (1) shall*
18 *not apply if the aliens or employers submit employ-*
19 *ment records that are deemed to be fraudulent.*

20 “(c) *ADMINISTRATIVE REVIEW.—*

21 “(1) *EXCLUSIVE ADMINISTRATIVE REVIEW.—Ad-*
22 *ministrative review of a determination respecting an*
23 *application for status under section 245B, 245C,*
24 *245D, or 245F or section 2211 of the Agricultural*

1 *Worker Program Act of 2013 shall be conducted solely*
2 *in accordance with this subsection.*

3 *“(2) ADMINISTRATIVE APPELLATE REVIEW.—*

4 *“(A) ESTABLISHMENT OF ADMINISTRATIVE*
5 *APPELLATE AUTHORITY.—The Secretary shall es-*
6 *tablish or designate an appellate authority to*
7 *provide for a single level of administrative ap-*
8 *pellate review of a determination with respect to*
9 *applications for, or revocation of, status under*
10 *sections 245B, 245C, and 245D.*

11 *“(B) SINGLE APPEAL FOR EACH ADMINIS-*
12 *TRATIVE DECISION.—*

13 *“(i) IN GENERAL.—An alien in the*
14 *United States whose application for status*
15 *under section 245B, 245C, or 245D has been*
16 *denied or revoked may file with the Sec-*
17 *retary not more than 1 appeal of each deci-*
18 *sion to deny or revoke such status.*

19 *“(ii) NOTICE OF APPEAL.—A notice of*
20 *appeal filed under this subparagraph shall*
21 *be filed not later than 90 days after the date*
22 *of service of the decision of denial or revoca-*
23 *tion, unless the delay was reasonably jus-*
24 *tifiable.*

1 “(C) *REVIEW BY SECRETARY.*—*Nothing in*
2 *this paragraph may be construed to limit the au-*
3 *thority of the Secretary to certify appeals for re-*
4 *view and final administrative decision.*

5 “(D) *DENIAL OF PETITIONS FOR DEPEND-*
6 *ENTS.*—*Appeals of a decision to deny or revoke*
7 *a petition filed by a registered provisional immi-*
8 *grant pursuant to regulations promulgated*
9 *under section 245B to classify a spouse or child*
10 *of such alien as a registered provisional immi-*
11 *grant shall be subject to the administrative ap-*
12 *pellate authority described in subparagraph (A).*

13 “(E) *STAY OF REMOVAL.*—*Aliens seeking*
14 *administrative review shall not be removed from*
15 *the United States until a final decision is ren-*
16 *dered establishing ineligibility for status under*
17 *section 245B, 245C, or 245D.*

18 “(3) *RECORD FOR REVIEW.*—*Administrative ap-*
19 *pellate review under paragraph (2) shall be de novo*
20 *and based solely upon—*

21 “(A) *the administrative record established*
22 *at the time of the determination on the applica-*
23 *tion; and*

24 “(B) *any additional newly discovered or*
25 *previously unavailable evidence.*

1 “(4) *UNLAWFUL PRESENCE.*—During the period
2 in which an alien may request administrative review
3 under this subsection, and during the period that any
4 such review is pending, the alien shall not be consid-
5 ered ‘unlawfully present in the United States’ for
6 purposes of section 212(a)(9)(B).

7 “(d) *PRIVACY AND CIVIL LIBERTIES.*—

8 “(1) *IN GENERAL.*—The Secretary, in accordance
9 with subsection (a)(1), shall require appropriate ad-
10 ministrative and physical safeguards to protect the se-
11 curity, confidentiality, and integrity of personally
12 identifiable information collected, maintained, and
13 disseminated pursuant to sections 245B, 245C, and
14 245D.

15 “(2) *ASSESSMENTS.*—Notwithstanding the pri-
16 vacy requirements set forth in section 222 of the
17 Homeland Security Act (6 U.S.C. 142) and the E-
18 Government Act of 2002 (Public Law 107–347), the
19 Secretary shall conduct a privacy impact assessment
20 and a civil liberties impact assessment of the legaliza-
21 tion program established under sections 245B, 245C,
22 and 245D during the pendency of the interim final
23 regulations required to be issued under section 2110
24 of the Border Security, Economic Opportunity, and
25 Immigration Modernization Act.”.

1 **(b) JUDICIAL REVIEW.**—Section 242 (8 U.S.C. 1252)

2 *is amended—*

3 **(1) in subsection (a)(2)—**

4 **(A) in subparagraph (B), by inserting “the**
5 *exercise of discretion arising under” after “no*
6 *court shall have jurisdiction to review”;*

7 **(B) in subparagraph (D), by striking**
8 *“raised upon a petition for review filed with an*
9 *appropriate court of appeals in accordance with*
10 *this section”;*

11 **(2) in subsection (b)(2), by inserting “or, in the**
12 *case of a decision rendered under section 245E(c), in*
13 *the judicial circuit in which the petitioner resides”*
14 *after “proceedings”; and*

15 **(3) by adding at the end the following:**

16 **“(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINA-**
17 **TIONS RELATING TO STATUS UNDER CHAPTER 5.—**

18 **“(1) DIRECT REVIEW.**—*If an alien’s application*
19 *under section 245B, 245C, 245D, or 245F or section*
20 *2211 of the Agricultural Worker Program Act of 2013*
21 *is denied, or is revoked after the exhaustion of admin-*
22 *istrative appellate review under section 245E(c), the*
23 *alien may seek review of such decision, in accordance*
24 *with chapter 7 of title 5, United States Code, before*

1 *the United States district court for the district in*
2 *which the person resides.*

3 “(2) *STATUS DURING REVIEW.*—*While a review*
4 *described in paragraph (1) is pending—*

5 “(A) *the alien shall not be deemed to accrue*
6 *unlawful presence for purposes of section*
7 *212(a)(9);*

8 “(B) *any unexpired grant of voluntary de-*
9 *parture under section 240B shall be tolled; and*

10 “(C) *the court shall have the discretion to*
11 *stay the execution of any order of exclusion, de-*
12 *portation, or removal.*

13 “(3) *REVIEW AFTER REMOVAL PROCEEDINGS.*—
14 *An alien may seek judicial review of a denial or rev-*
15 *ocation of approval of the alien’s application under*
16 *section 245B, 245C, or 245D in the appropriate*
17 *United States court of appeal in conjunction with the*
18 *judicial review of an order of removal, deportation, or*
19 *exclusion if the validity of the denial has not been*
20 *upheld in a prior judicial proceeding under para-*
21 *graph (1).*

22 “(4) *STANDARD FOR JUDICIAL REVIEW.*—

23 “(A) *BASIS.*—*Judicial review of a denial,*
24 *or revocation of an approval, of an application*
25 *under section 245B, 245C, or 245D shall be*

1 *based upon the administrative record established*
2 *at the time of the review.*

3 “(B) *AUTHORITY TO REMAND.*—*The review-*
4 *ing court may remand a case under this sub-*
5 *section to the Secretary for consideration of ad-*
6 *ditional evidence if the court finds that—*

7 “(i) *the additional evidence is mate-*
8 *rial; and*

9 “(ii) *there were reasonable grounds for*
10 *failure to adduce the additional evidence be-*
11 *fore the Secretary.*

12 “(C) *SCOPE OF REVIEW.*—*Notwithstanding*
13 *any other provision of law, judicial review of all*
14 *questions arising from a denial, or revocation of*
15 *an approval, of an application under section*
16 *245B, 245C, or 245D shall be governed by the*
17 *standard of review set forth in section 706 of*
18 *title 5, United States Code.*

19 “(5) *REMEDIAL POWERS.*—

20 “(A) *JURISDICTION.*—*Notwithstanding any*
21 *other provision of law, the United States district*
22 *courts shall have jurisdiction over any cause or*
23 *claim arising from a pattern or practice of the*
24 *Secretary in the operation or implementation of*
25 *the Border Security, Economic Opportunity, and*

1 *Immigration Modernization Act, or the amend-*
2 *ments made by such Act, that is arbitrary, ca-*
3 *pricious, or otherwise contrary to law.*

4 “(B) *SCOPE OF RELIEF.*—*The United*
5 *States district courts may order any appropriate*
6 *relief in a clause or claim described in subpara-*
7 *graph (A) without regard to exhaustion, ripe-*
8 *ness, or other standing requirements (other than*
9 *constitutionally-mandated requirements), if the*
10 *court determines that—*

11 “(i) *the resolution of such cause or*
12 *claim will serve judicial and administrative*
13 *efficiency; or*

14 “(ii) *a remedy would otherwise not be*
15 *reasonably available or practicable.*

16 “(6) *CHALLENGES TO THE VALIDITY OF THE*
17 *SYSTEM.*—

18 “(A) *IN GENERAL.*—*Except as provided in*
19 *paragraph (5), any claim that section 245B,*
20 *245C, 245D, or 245E or any regulation, written*
21 *policy, or written directive, issued or unwritten*
22 *policy or practice initiated by or under the au-*
23 *thority of the Secretary to implement such sec-*
24 *tions, violates the Constitution of the United*
25 *States or is otherwise in violation of law is*

1 *available exclusively in an action instituted in*
2 *United States District Court in accordance with*
3 *the procedures prescribed in this paragraph.*

4 “(B) *SAVINGS PROVISION.*—*Except as pro-*
5 *vided in subparagraph (C), nothing in subpara-*
6 *graph (A) may be construed to preclude an ap-*
7 *plicant under 245B, 245C, or 245D from assert-*
8 *ing that an action taken or a decision made by*
9 *the Secretary with respect to the applicant’s sta-*
10 *tus was contrary to law.*

11 “(C) *CLASS ACTIONS.*—*Any claim described*
12 *in subparagraph (A) that is brought as a class*
13 *action shall be brought in conformity with—*

14 “(i) *the Class Action Fairness Act of*
15 *2005 (Public Law 109–2); and*

16 “(ii) *the Federal Rules of Civil Proce-*
17 *dure.*

18 “(D) *PRECLUSIVE EFFECT.*—*The final dis-*
19 *position of any claim brought under subpara-*
20 *graph (A) shall be preclusive of any such claim*
21 *asserted by the same individual in a subsequent*
22 *proceeding under this subsection.*

23 “(E) *EXHAUSTION AND STAY OF PRO-*
24 *CEEDINGS.*—

1 “(i) *IN GENERAL.*—No claim brought
2 under this paragraph shall require the
3 plaintiff to exhaust administrative remedies
4 under section 245E(c).

5 “(ii) *STAY AUTHORIZED.*—Nothing in
6 this paragraph may be construed to prevent
7 the court from staying proceedings under
8 this paragraph to permit the Secretary to
9 evaluate an allegation of an unwritten pol-
10 icy or practice or to take corrective action.
11 In determining whether to issue such a stay,
12 the court shall take into account any harm
13 the stay may cause to the claimant.”.

14 (c) *RULE OF CONSTRUCTION.*—Section 244(h) of the
15 Immigration and Nationality Act (8 U.S.C. 1254a(h)) shall
16 not limit the authority of the Secretary to adjust the status
17 of an alien under section 245C or 245D of the Immigration
18 and Nationality Act, as added by this subtitle.

19 (d) *EFFECT OF FAILURE TO REGISTER ON ELIGI-*
20 *BILITY FOR IMMIGRATION BENEFITS.*—Failure to comply
21 with section 264.1(f) of title 8, Code of Federal Regulations
22 or with removal orders or voluntary departure agreements
23 based on such section for acts committed before the date of
24 the enactment of this Act shall not affect the eligibility of

1 *an alien to apply for a benefit under the Immigration and*
2 *Nationality Act (8 U.S.C. 1101 et seq.).*

3 (e) *CLERICAL AMENDMENT.—The table of contents is*
4 *amended by inserting after the item relating to section 245A*
5 *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.”.

6 **SEC. 2105. CRIMINAL PENALTY.**

7 (a) *IN GENERAL.—Chapter 69 of title 18, United*
8 *States Code, is amended by adding at the end the following:*

9 **“§ 1430. Improper use of information relating to reg-**
10 **istered provisional immigrant applica-**
11 **tions**

12 *“Any person who knowingly uses, publishes, or permits*
13 *information described in section 245E(a) of the Immigra-*
14 *tion and Nationality Act to be examined in violation of*
15 *such section shall be fined not more than \$10,000.”.*

16 (b) *DEPOSIT OF FINES.—All criminal penalties col-*
17 *lected under section 1430 of title 18, United States Code,*
18 *as added by subsection (a), shall be deposited into the Com-*
19 *prehensive Immigration Reform Trust Fund established*
20 *under section 6(a)(1).*

1 (c) *CLERICAL AMENDMENT.*—*The table of sections in*
2 *chapter 69 of title 18, United States Code, is amended by*
3 *adding at the end the following:*

 “1430. *Improper use of information relating to registered provisional immigrant*
 applications.”.

4 **SEC. 2106. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
5 **CANTS.**

6 (a) *ESTABLISHMENT.*—*The Secretary may establish,*
7 *within U.S. Citizenship and Immigration Services, a pro-*
8 *gram to award grants, on a competitive basis, to eligible*
9 *nonprofit organizations that will use the funding to assist*
10 *eligible applicants under section 245B, 245C, 245D, or*
11 *245F of the Immigration and Nationality Act or section*
12 *2211 of this Act by providing them with the services de-*
13 *scribed in subsection (c).*

14 (b) *ELIGIBLE NONPROFIT ORGANIZATION.*—*The term*
15 *“eligible nonprofit organization” means a nonprofit, tax-*
16 *exempt organization, including a community, faith-based*
17 *or other immigrant-serving organization, whose staff has*
18 *demonstrated qualifications, experience, and expertise in*
19 *providing quality services to immigrants, refugees, persons*
20 *granted asylum, or persons applying for such statuses.*

21 (c) *USE OF FUNDS.*—*Grant funds awarded under this*
22 *section may be used for the design and implementation of*
23 *programs that provide—*

1 (1) *information to the public regarding the eligi-*
2 *bility and benefits of registered provisional immi-*
3 *grant status authorized under section 245B of the Im-*
4 *migration and Nationality Act and blue card status*
5 *authorized under section 2211, particularly to indi-*
6 *viduals potentially eligible for such status;*

7 (2) *assistance, within the scope of authorized*
8 *practice of immigration law, to individuals submit-*
9 *ting applications for registered provisional immi-*
10 *grant status or blue card status, including—*

11 (A) *screening prospective applicants to as-*
12 *sess their eligibility for such status;*

13 (B) *completing applications and petitions,*
14 *including providing assistance in obtaining the*
15 *requisite documents and supporting evidence;*

16 (C) *applying for any waivers for which ap-*
17 *plicants and qualifying family members may be*
18 *eligible; and*

19 (D) *providing any other assistance that the*
20 *Secretary or grantees consider useful or nec-*
21 *essary to apply for registered provisional immi-*
22 *grant status or blue card status;*

23 (3) *assistance, within the scope of authorized*
24 *practice of immigration law, to individuals seeking to*
25 *adjust their status to that of an alien admitted for*

1 *permanent residence under section 245C or 245F of*
2 *the Immigration and Nationality Act; and*

3 (4) *assistance, within the scope of authorized*
4 *practice of immigration law, and instruction, to indi-*
5 *viduals—*

6 (A) *on the rights and responsibilities of*
7 *United States citizenship;*

8 (B) *in civics and civics-based English as a*
9 *second language; and*

10 (C) *in applying for United States citizen-*
11 *ship.*

12 (d) *SOURCE OF GRANT FUNDS.—*

13 (1) *APPLICATION FEES.—The Secretary may use*
14 *up to \$50,000,000 from the Comprehensive Immigra-*
15 *tion Reform Trust Fund established under section*
16 *6(a)(1) to carry out this section.*

17 (2) *AUTHORIZATION OF APPROPRIATIONS.—*

18 (A) *AMOUNTS AUTHORIZED.—In addition*
19 *to the amounts made available under paragraph*
20 *(1), there are authorized to be appropriated such*
21 *sums as may be necessary for each of the fiscal*
22 *years 2014 through 2018 to carry out this sec-*
23 *tion.*

1 (B) *AVAILABILITY*.—Any amounts appro-
2 priated pursuant to subparagraph (A) shall re-
3 main available until expended.

4 **SEC. 2107. CONFORMING AMENDMENTS TO THE SOCIAL SE-**
5 **CURITY ACT.**

6 (a) *CORRECTION OF SOCIAL SECURITY RECORDS*.—

7 (1) *IN GENERAL*.—Section 208(e)(1) of the So-
8 cial Security Act (42 U.S.C. 408(e)(1)) is amended—

9 (A) in subparagraph (B)(ii), by striking
10 “or” at the end;

11 (B) in subparagraph (C), by striking the
12 comma at the end and inserting a semicolon;

13 (C) by inserting after subparagraph (C) the
14 following:

15 “(D) who is granted status as a registered
16 provisional immigrant under section 245B or
17 245D of the Immigration and Nationality Act;
18 or

19 “(E) whose status is adjusted to that of law-
20 ful permanent resident under section 245C of the
21 Immigration and Nationality Act,”; and

22 (D) in the undesignated matter at the end,
23 by inserting “, or in the case of an alien de-
24 scribed in subparagraph (D) or (E), if such con-
25 duct is alleged to have occurred before the date

1 *on which the alien submitted an application*
2 *under section 245B of such Act for classification*
3 *as a registered provisional immigrant” before the*
4 *period at the end.*

5 (2) *EFFECTIVE DATE.*—*The amendments made*
6 *by paragraph (1) shall take effect on the first day of*
7 *the tenth month that begins after the date of the en-*
8 *actment of this Act.*

9 (b) *STATE DISCRETION REGARDING TERMINATION OF*
10 *PARENTAL RIGHTS.*—

11 (1) *IN GENERAL.*—*A compelling reason for a*
12 *State not to file (or to join in the filing of) a petition*
13 *to terminate parental rights under section 475(5)(E)*
14 *of the Social Security Act (42 U.S.C. 675(5)(E)) shall*
15 *include—*

16 (A) *the removal of the parent from the*
17 *United States, unless the parent is unfit or un-*
18 *willing to be a parent of the child; or*

19 (B) *the involvement of the parent in (in-*
20 *cluding detention pursuant to) an immigration*
21 *proceeding, unless the parent is unfit or unwill-*
22 *ing to be a parent of the child.*

23 (2) *CONDITIONS.*—*Before a State may file to ter-*
24 *minate the parental rights under such section*
25 *475(5)(E), the State (or the county or other political*

1 *subdivision of the State, as applicable) shall make*
2 *reasonable efforts—*

3 *(A) to identify, locate, and contact (includ-*
4 *ing, if appropriate, through the diplomatic or*
5 *consular offices of the country to which the par-*
6 *ent was removed or in which a parent or relative*
7 *resides)—*

8 *(i) any parent of the child who is in*
9 *immigration detention;*

10 *(ii) any parent of the child who has*
11 *been removed from the United States; and*

12 *(iii) if possible, any potential adult*
13 *relative of the child (as described in section*
14 *471(a)(29));*

15 *(B) to notify such parent or relative of the*
16 *intent of the State (or the county or other polit-*
17 *ical subdivision of the State, as applicable) to*
18 *file (or to join in the filing of) a petition referred*
19 *to in paragraph (1); or*

20 *(C) to reunify the child with any such par-*
21 *ent or relative; and*

22 *(D) to provide and document appropriate*
23 *services to the parent or relative.*

24 (3) *CONFORMING AMENDMENT.—Section*
25 *475(5)(E)(ii) of the Social Security Act (42 U.S.C.*

1 675(5)(E)) is amended by inserting “, including the
2 reason set forth in section 2107(b)(1) of the Border
3 Security, Economic Opportunity, and Immigration
4 Modernization Act” after “child”.

5 (c) CHILDREN SEPARATED FROM PARENTS AND CARE-
6 GIVERS.—

7 (1) STATE PLAN FOR FOSTER CARE AND ADOPT-
8 TION ASSISTANCE.—Section 471(a) of the Social Secu-
9 rity Act (42 U.S.C. 671(a)) is amended—

10 (A) by amending paragraph (19) to read as
11 follows:

12 “(19) provides that the State shall give pref-
13 erence to an adult relative over a nonrelated caregiver
14 when determining a placement for a child if—

15 “(A) the relative caregiver meets all relevant
16 State child protection standards; and

17 “(B) the standards referred to in subpara-
18 graph (A) ensure that the immigration status
19 alone of a parent, legal guardian, or relative
20 shall not disqualify the parent, legal guardian,
21 or relative from being a placement for a child;”;
22 and

23 (B) in paragraph (32), by striking “and”
24 at the end;

1 (C) in paragraph (33), by striking the pe-
2 riod at the end and inserting “; and”; and

3 (D) by adding at the end the following:

4 “(34) provides that the State shall—

5 “(A) ensure that the case manager for a
6 separated child is capable of communicating in
7 the native language of such child and of the fam-
8 ily of such child, or an interpreter who is so ca-
9 pable is provided to communicate with such
10 child and the family of such child at no cost to
11 the child or to the family of such child;

12 “(B) coordinate with the Department of
13 Homeland Security to ensure that parents who
14 wish for their child to accompany them to their
15 country of origin are given adequate time and
16 assistance to obtain a passport and visa, and to
17 collect all relevant vital documents, such as birth
18 certificate, health, and educational records and
19 other information;

20 “(C) coordinate with State agencies regard-
21 ing alternate documentation requirements for a
22 criminal records check or a fingerprint-based
23 check for a caregiver that does not have Federal
24 or State-issued identification;

1 “(D) preserve, to the greatest extent prac-
2 ticable, the privacy and confidentiality of all in-
3 formation gathered in the course of admin-
4 istering the care, custody, and placement of, and
5 follow up services provided to, a separated child,
6 consistent with the best interest of such child, by
7 not disclosing such information to other govern-
8 ment agencies or persons (other than a parent,
9 legal guardian, or relative caregiver or such
10 child), except that the head of the State agency
11 (or the county or other political subdivision of
12 the State, as applicable) may disclose such infor-
13 mation, after placing a written record of the dis-
14 closure in the file of the child—

15 “(i) to a consular official for the pur-
16 pose of reunification of a child with a par-
17 ent, legal guardian, or relative caregiver
18 who has been removed or is involved in an
19 immigration proceeding, unless the child
20 has refused contact with, or the sharing of
21 personal or identifying information with,
22 the government of his or her country of ori-
23 gin;

24 “(ii) when authorized to do so by the
25 child (if the child has attained 18 years of

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1 age) if the disclosure is consistent with the
2 best interest of the child; or

3 “(iii) to a law enforcement agency if
4 the disclosure would prevent imminent and
5 serious harm to another individual; and

6 “(E) not less frequently than annually,
7 compile, update, and publish a list of entities in
8 the State that are qualified to provide legal rep-
9 resentation services for a separated child, in a
10 language such that a child can read and under-
11 stand.”.

12 (2) *ADDITIONAL INFORMATION TO BE INCLUDED*
13 *IN CASE PLAN.*—Section 475 of such Act (42 U.S.C.
14 675) is amended—

15 (A) in paragraph (1), by adding at the end
16 the following:

17 “(H) In the case of a separated child with
18 respect to whom the State plan requires the State
19 to provide services under section 471(a)(34)—

20 “(i) the location of the parent or legal
21 guardian described in paragraph (9)(A)
22 from whom the child has been separated;
23 and

24 “(ii) a written record of each disclosure
25 to a government agency or person (other

1 *than such a parent, legal guardian, or rel-*
2 *ative) of information gathered in the course*
3 *of tracking the care, custody, and placement*
4 *of, and follow-up services provided to, the*
5 *child.”; and*

6 *(B) by adding at the end the following:*

7 *“(9) The term ‘separated child’ means an indi-*
8 *vidual who—*

9 *“(A) has a parent or legal guardian who*
10 *has been—*

11 *“(i) detained by a Federal, State, or*
12 *local law enforcement agency in the enforce-*
13 *ment of an immigration law; or*

14 *“(ii) removed from the United States*
15 *as a result of a violation of such a law; and*

16 *“(B) is in foster care under the responsi-*
17 *bility of a State.”.*

18 *(3) EFFECTIVE DATE.—The amendments made*
19 *by this subsection shall take effect on the 1st day of*
20 *the 1st calendar quarter that begins after the 1-year*
21 *period that begins on the date of the enactment of this*
22 *Act.*

1 **SEC. 2108. GOVERNMENT CONTRACTING AND ACQUISITION**
2 **OF REAL PROPERTY INTEREST.**

3 (a) *EXEMPTION FROM GOVERNMENT CONTRACTING*
4 *AND HIRING RULES.—*

5 (1) *IN GENERAL.—A determination by a Federal*
6 *agency to use a procurement competition exemption*
7 *under section 253(c) of title 41, United States Code,*
8 *or to use the authority granted in paragraph (2), for*
9 *the purpose of implementing this title and the amend-*
10 *ments made by this title is not subject to challenge by*
11 *protest to the Government Accountability Office under*
12 *sections 3551 and 3556 of title 31, United States*
13 *Code, or to the Court of Federal Claims, under section*
14 *1491 of title 28, United States Code. An agency shall*
15 *immediately advise the Congress of the exercise of the*
16 *authority granted under this paragraph.*

17 (2) *GOVERNMENT CONTRACTING EXEMPTION.—*
18 *The competition requirement under section 253(a) of*
19 *title 41, United States Code, may be waived or modi-*
20 *fied by a Federal agency for any procurement con-*
21 *ducted to implement this title or the amendments*
22 *made by this title if the senior procurement executive*
23 *for the agency conducting the procurement—*

24 (A) *determines that the waiver or modifica-*
25 *tion is necessary; and*

1 (B) submits an explanation for such deter-
2 mination to the Committee on Homeland Secu-
3 rity and Governmental Affairs of the Senate and
4 the Committee on Homeland Security of the
5 House of Representatives.

6 (3) *HIRING RULES EXEMPTION.*—Notwith-
7 standing any other provision of law, the Secretary is
8 authorized to make term, temporary limited, and
9 part-time appointments of employees who will imple-
10 ment this title and the amendments made by this title
11 without regard to the number of such employees, their
12 ratio to permanent full-time employees, and the dura-
13 tion of their employment. Nothing in chapter 71 of
14 title 5, United States Code, shall affect the authority
15 of any Department management official to hire term,
16 temporary limited or part-time employees under this
17 paragraph.

18 (b) *AUTHORITY TO WAIVE ANNUITY LIMITATIONS.*—
19 Section 824(g)(2)(B) of the Foreign Service Act of 1980 (22
20 U.S.C. 4064(g)(2)(B)) is amended by striking “2009” and
21 inserting “2017”.

22 (c) *AUTHORITY TO ACQUIRE LEASEHOLDS.*—Notwith-
23 standing any other provision of law, the Secretary may ac-
24 quire a leasehold interest in real property, and may provide
25 in a lease entered into under this subsection for the con-

1 *struction or modification of any facility on the leased prop-*
 2 *erty, if the Secretary determines that the acquisition of such*
 3 *interest, and such construction or modification, are nec-*
 4 *essary in order to facilitate the implementation of this title*
 5 *and the amendments made by this title.*

6 **SEC. 2109. LONG-TERM LEGAL RESIDENTS OF THE COM-**
 7 **MONWEALTH OF THE NORTHERN MARIANA**
 8 **ISLANDS.**

9 *Section (6)(e) of the Joint Resolution entitled “A Joint*
 10 *Resolution to approve the ‘Covenant to Establish a Com-*
 11 *monwealth of the Northern Mariana Islands in Political*
 12 *Union with the United States of America’, and for other*
 13 *purposes”, approved March 24, 1976 (48 U.S.C. 1806(e)),*
 14 *as added by section 702 of the Consolidated Natural Re-*
 15 *sources Act of 2008 (Public Law 110–229; 122 Stat. 854),*
 16 *is amended by adding at the end the following:*

17 *“(6) SPECIAL PROVISION REGARDING LONG-TERM*
 18 *RESIDENTS OF THE COMMONWEALTH.—*

19 *“(A) CNMI-ONLY RESIDENT STATUS.—Not-*
 20 *withstanding paragraph (1), an alien described*
 21 *in subparagraph (B) may, upon the application*
 22 *of the alien, be admitted as an immigrant to the*
 23 *Commonwealth subject to the following rules:*

24 *“(i) The alien shall be treated as an*
 25 *immigrant lawfully admitted for permanent*

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1 *residence in the Commonwealth only, in-*
2 *cluding permitting entry to and exit from*
3 *the Commonwealth, until the earlier of the*
4 *date on which—*

5 *“(I) the alien ceases to perma-*
6 *nently reside in the Commonwealth; or*

7 *“(II) the alien’s status is adjusted*
8 *under this paragraph or section 245 of*
9 *the Immigration and Nationality Act*
10 *(8 U.S.C. 1255) to that of an alien*
11 *lawfully admitted for permanent resi-*
12 *dence in accordance with all applicable*
13 *eligibility requirements.*

14 *“(ii) The Secretary of Homeland Secu-*
15 *rity shall establish a process for such aliens*
16 *to apply for CNMI-only permanent resident*
17 *status during the 90-day period beginning*
18 *on the first day of the sixth month after the*
19 *date of the enactment of this paragraph.*

20 *“(iii) Nothing in this subparagraph*
21 *may be construed to provide any alien*
22 *granted status under this subparagraph*
23 *with public assistance to which the alien is*
24 *not otherwise entitled.*

1 “(III) is the spouse or child (as defined
2 in section 101(b)(1) of the Immigration and
3 Nationality Act (8 U.S.C. 1101(b)(1))), of
4 an alien described in subclauses (I) or (II);

5 “(IV) was, on May 8, 2008, an imme-
6 diate relative (as defined in section 4303 of
7 title 3 of the Northern Mariana Islands
8 Commonwealth Code, in effect on May 8,
9 2008, of a United States citizen, notwith-
10 standing the age of the United States cit-
11 izen, and continues to be such an immediate
12 relative on the date of the application de-
13 scribed in subparagraph (A);

14 “(V) resided in the Northern Mariana
15 Islands as a guest worker under Common-
16 wealth immigration law for at least 5 years
17 before May 8, 2008 and is presently resident
18 under CW-1 status; or

19 “(VI) is the spouse or child (as defined
20 in section 101(b)(1) of the Immigration and
21 Nationality Act (8 U.S.C. 1101(b)(1))), of
22 the alien guest worker described in sub-
23 clause (V) and is presently resident under
24 CW-2 status.

1 “(C) *ADJUSTMENT FOR LONG TERM AND*
2 *PERMANENT RESIDENTS.*—*Beginning on the date*
3 *that is 5 years after the date of the enactment of*
4 *the Border Security, Economic Opportunity, and*
5 *Immigration Modernization Act, an alien de-*
6 *scribed in subparagraph (B) may apply to re-*
7 *ceive an immigrant visa or to adjust his or her*
8 *status to that of an alien lawfully admitted for*
9 *permanent residence.”.*

10 **SEC. 2110. RULEMAKING.**

11 (a) *IN GENERAL.*—*Not later than 1 year after the date*
12 *of the enactment of this Act, the Secretary, the Attorney*
13 *General, and the Secretary of State separately shall issue*
14 *interim final regulations to implement this subtitle and the*
15 *amendments made by this subtitle, which shall take effect*
16 *immediately upon publication in the Federal Register.*

17 (b) *APPLICATION PROCEDURES; PROCESSING FEES;*
18 *DOCUMENTATION.*—*The interim final regulations issued*
19 *under subsection (a) shall include—*

20 (1) *the procedures by which an alien, and the de-*
21 *pendent spouse and children of such alien may apply*
22 *for status under section 245B of the Immigration and*
23 *Nationality Act, as added by section 2101 of this Act,*
24 *as a registered provisional immigrant or a registered*
25 *provisional immigrant dependent, as applicable, in-*

1 *cluding the evidence required to demonstrate eligi-*
2 *bility for such status or to be included in each appli-*
3 *cation for such status;*

4 *(2) the criteria to be used by the Secretary to de-*
5 *termine—*

6 *(A) the maximum processing fee payable*
7 *under sections 245B(c)(10)(B) and*
8 *245C(c)(5)(A) of such Act by a family, including*
9 *spouses and unmarried children younger than 21*
10 *years of age; and*

11 *(B) which individuals will be exempt from*
12 *such fees;*

13 *(3) the documentation required to be submitted*
14 *by the applicant to demonstrate compliance with sec-*
15 *tion 245C(b)(3) of such Act; and*

16 *(4) the procedures for a registered provisional*
17 *immigrant to apply for adjustment of status under*
18 *section 245C or 245D of such Act, including the evi-*
19 *dence required to be submitted with such application*
20 *to demonstrate the applicant's eligibility for such ad-*
21 *justment.*

22 *(c) EXEMPTION FROM NATIONAL ENVIRONMENTAL*
23 *POLICY ACT.—Any decision by the Secretary concerning*
24 *any rulemaking action, plan, or program described in this*
25 *section shall not be considered to be a major Federal action*

1 *subject to review under the National Environmental Policy*
2 *Act of 1969 (42 U.S.C. 4321 et seq.).*

3 **SEC. 2111. STATUTORY CONSTRUCTION.**

4 *Except as specifically provided, nothing in this sub-*
5 *title, or any amendment made by this subtitle, may be con-*
6 *strued to create any substantive or procedural right or ben-*
7 *efit that is legally enforceable by any party against the*
8 *United States or its agencies or officers or any other person.*

9 ***Subtitle B—Agricultural Worker***
10 ***Program***

11 **SEC. 2201. SHORT TITLE.**

12 *This subtitle may be cited as the “Agricultural Worker*
13 *Program Act of 2013”.*

14 **SEC. 2202. DEFINITIONS.**

15 *In this subtitle:*

16 (1) *BLUE CARD STATUS.*—*The term “blue card*
17 *status” means the status of an alien who has been*
18 *lawfully admitted into the United States for tem-*
19 *porary residence under section 2211.*

20 (2) *AGRICULTURAL EMPLOYMENT.*—*The term*
21 *“agricultural employment” has the meaning given*
22 *such term in section 3 of the Migrant and Seasonal*
23 *Agricultural Worker Protection Act (29 U.S.C. 1802),*
24 *without regard to whether the specific service or activ-*
25 *ity is temporary or seasonal.*

1 (3) *CHILD*.—The term “child” has the meaning
2 given the term in section 101(b)(1) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1101(b)(1)).

4 (4) *EMPLOYER*.—The term “employer” means
5 any person or entity, including any farm labor con-
6 tractor and any agricultural association, that em-
7 ploys workers in agricultural employment.

8 (5) *QUALIFIED DESIGNATED ENTITY*.—The term
9 “qualified designated entity” means—

10 (A) a qualified farm labor organization or
11 an association of employers designated by the
12 Secretary; or

13 (B) any other entity that the Secretary des-
14 ignates as having substantial experience, dem-
15 onstrated competence, and a history of long-term
16 involvement in the preparation and submission
17 of application for adjustment of status under
18 title II of the Immigration and Nationality Act
19 (8 U.S.C. 1151 et seq.).

20 (6) *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.

1 **CHAPTER 1—PROGRAM FOR EARNED STA-**
2 **TUS ADJUSTMENT OF AGRICULTURAL**
3 **WORKERS**

4 **Subchapter A—Blue Card Status**

5 **SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS.**

6 *(a) REQUIREMENTS FOR BLUE CARD STATUS.—Not-*
7 *withstanding any other provision of law, the Secretary,*
8 *after conducting the national security and law enforcement*
9 *clearances required under section 245B(c)(4), may grant*
10 *blue card status to an alien who—*

11 *(1)(A) performed agricultural employment in the*
12 *United States for not fewer than 575 hours or 100*
13 *work days during the 2-year period ending on Decem-*
14 *ber 31, 2012; or*

15 *(B) is the spouse or child of an alien described*
16 *in subparagraph (A) and was physically present in*
17 *the United States on or before December 31, 2012,*
18 *and has maintained continuous presence in the*
19 *United States from that date until the date on which*
20 *the alien is granted blue card status, with the excep-*
21 *tion of absences from the United States that are brief,*
22 *casual, and innocent, whether or not such absences*
23 *were authorized by the Secretary;*

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

1 (3) *is not ineligible under paragraph (3) or (4)*
2 *of section 245B(b) of the Immigration and Nation-*
3 *ality Act (other than a nonimmigrant alien admitted*
4 *to the United States for agricultural employment de-*
5 *scribed in section 101(a)(15)(H)(ii)(a) of such Act.*

6 (b) *APPLICATION.—*

7 (1) *IN GENERAL.—An alien who meets the eligi-*
8 *bility requirements set forth in subsection (a)(1), may*
9 *apply for blue card status and that alien’s spouse or*
10 *child may apply for blue card status as a dependent,*
11 *by submitting a completed application form to the*
12 *Secretary during the application period set forth in*
13 *paragraph (2) in accordance with the final rule pro-*
14 *mulgated by the Secretary pursuant to subsection (e).*

15 (2) *SUBMISSION.—The Secretary shall provide*
16 *that the alien shall be able to submit an application*
17 *under paragraph (1)—*

18 (A) *if the applicant is represented by an at-*
19 *torney or a nonprofit religious, charitable, social*
20 *service, or similar organization recognized by the*
21 *Board of Immigration Appeals under section*
22 *292.2 of title 8, Code of Federal Regulations; or*

23 (B) *to a qualified entity if the applicant*
24 *consents to the forwarding of the application to*
25 *the Secretary.*

1 (3) *APPLICATION PERIOD.*—

2 (A) *INITIAL PERIOD.*—*Except as provided*
3 *in subparagraph (B), the Secretary may only ac-*
4 *cept applications for blue card status for a 1-*
5 *year period from aliens in the United States be-*
6 *ginning on the date on which the final rule is*
7 *published in the Federal Register pursuant to*
8 *subsection (f), except that qualified non-*
9 *immigrants who have participated in the H-2A*
10 *Program may apply from outside of the United*
11 *States.*

12 (B) *EXTENSION.*—*If the Secretary deter-*
13 *mines, during the initial period described in*
14 *subparagraph (A), that additional time is re-*
15 *quired to process applications for blue card sta-*
16 *tus or for other good cause, the Secretary may*
17 *extend the period for accepting applications for*
18 *an additional 18 months.*

19 (4) *APPLICATION FORM.*—

20 (A) *REQUIRED INFORMATION.*—*The appli-*
21 *cation form referred to in paragraph (1) shall*
22 *collect such information as the Secretary deter-*
23 *mines necessary and appropriate.*

24 (B) *FAMILY APPLICATION.*—*The Secretary*
25 *shall establish a process through which an alien*

1 *may submit a single application under this sec-*
2 *tion on behalf of the alien, his or her spouse, and*
3 *his or her children, who are residing in the*
4 *United States.*

5 (C) *INTERVIEW.*—*The Secretary may inter-*
6 *view applicants for blue card status to determine*
7 *whether they meet the eligibility requirements set*
8 *forth in subsection (a)(1).*

9 (5) *ALIENS APPREHENDED BEFORE OR DURING*
10 *THE APPLICATION PERIOD.*—*If an alien, who is ap-*
11 *prehended during the period beginning on the date of*
12 *the enactment of this Act and ending on the applica-*
13 *tion period described in paragraph (3), appears*
14 *prima facie eligible for blue card status, the Sec-*
15 *retary—*

16 (A) *shall provide the alien with a reason-*
17 *able opportunity to file an application under*
18 *this section during such application period; and*

19 (B) *may not remove the individual until a*
20 *final administrative determination is made on*
21 *the application.*

22 (6) *SUSPENSION OF REMOVAL DURING APPLICA-*
23 *TION PERIOD.*—

24 (A) *PROTECTION FROM DETENTION OR RE-*
25 *MOVAL.*—*An alien granted blue card status may*

1 *not be detained by the Secretary or removed from*
2 *the United States unless—*

3 *(i) such alien is, or has become, ineli-*
4 *gible for blue card status; or*

5 *(ii) the alien's blue card status has*
6 *been revoked.*

7 *(B) ALIENS IN REMOVAL PROCEEDINGS.—*
8 *Notwithstanding any other provision of the Im-*
9 *migration and Nationality Act (8 U.S.C. 1101 et*
10 *seq.)—*

11 *(i) if the Secretary determines that an*
12 *alien, during the period beginning on the*
13 *date of the enactment of this section and*
14 *ending on the last day of the application*
15 *period described in paragraph (2), is in re-*
16 *moval, deportation, or exclusion proceedings*
17 *before the Executive Office for Immigration*
18 *Review and is prima facie eligible for blue*
19 *card status under this section—*

20 *(I) the Secretary shall provide the*
21 *alien with the opportunity to file an*
22 *application for such status; and*

23 *(II) upon motion by the Secretary*
24 *and with the consent of the alien or*
25 *upon motion by the alien, the Execu-*

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1 *tive Office for Immigration Review*
2 *shall—*

3 *(aa) terminate such pro-*
4 *ceedings without prejudice to fu-*
5 *ture proceedings on any basis;*
6 *and*

7 *(bb) provide the alien a rea-*
8 *sonable opportunity to apply for*
9 *such status; and*

10 *(ii) if the Executive Office for Immi-*
11 *gration Review determines that an alien,*
12 *during the application period described in*
13 *paragraph (2), is in removal, deportation,*
14 *or exclusion proceedings before the Execu-*
15 *tive Office for Immigration Review and is*
16 *prima facie eligible for blue card status*
17 *under this section—*

18 *(I) the Executive Office of Immi-*
19 *gration Review shall notify the Sec-*
20 *retary of such determination; and*

21 *(II) if the Secretary does not dis-*
22 *pute the determination of prima facie*
23 *eligibility within 7 days after such no-*
24 *tification, the Executive Office for Im-*

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1 *migration Review, upon consent of the*
2 *alien, shall—*

3 *(aa) terminate such pro-*
4 *ceedings without prejudice to fu-*
5 *ture proceedings on any basis;*
6 *and*

7 *(bb) permit the alien a rea-*
8 *sonable opportunity to apply for*
9 *such status.*

10 *(C) TREATMENT OF CERTAIN ALIENS.—*

11 *(i) IN GENERAL.—If an alien who*
12 *meets the eligibility requirements set forth*
13 *in subsection (a) is present in the United*
14 *States and has been ordered excluded, de-*
15 *ported, or removed, or ordered to depart vol-*
16 *untarily from the United States under any*
17 *provision of this Act—*

18 *(I) notwithstanding such order or*
19 *section 241(a)(5) of the Immigration*
20 *and Nationality Act (8 U.S.C.*
21 *1231(a)(5)), the alien may apply for*
22 *blue card status under this section; and*

23 *(II) if the alien is granted such*
24 *status, the alien shall file a motion to*
25 *reopen the exclusion, deportation, re-*

1 *moval, or voluntary departure order,*
2 *which motion shall be granted unless 1*
3 *or more of the grounds of ineligibility*
4 *is established by clear and convincing*
5 *evidence.*

6 *(ii) LIMITATIONS ON MOTIONS TO RE-*
7 *OPEN.—The limitations on motions to re-*
8 *open set forth in section 240(c)(7) of the*
9 *Immigration and Nationality Act (8 U.S.C.*
10 *1229a(c)(7)) shall not apply to motions*
11 *filed under clause (i)(II).*

12 *(D) PERIOD PENDING ADJUDICATION OF AP-*
13 *PLICATION.—*

14 *(i) IN GENERAL.—During the period*
15 *beginning on the date on which an alien*
16 *applies for blue card status under this sub-*
17 *section and the date on which the Secretary*
18 *makes a final decision regarding such ap-*
19 *plication, the alien—*

20 *(I) may receive advance parole to*
21 *reenter the United States if urgent hu-*
22 *manitarian circumstances compel such*
23 *travel;*

24 *(II) may not be detained by the*
25 *Secretary or removed from the United*

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1 *States unless the Secretary makes a*
2 *prima facie determination that such*
3 *alien is, or has become, ineligible for*
4 *blue card status;*

5 *(III) shall not be considered un-*
6 *lawfully present for purposes of section*
7 *212(a)(9)(B) of the Immigration and*
8 *Nationality Act (8 U.S.C.*
9 *1182(a)(9)(B)); and*

10 *(IV) shall not be considered an*
11 *unauthorized alien (as defined in sec-*
12 *tion 274A(h)(3) of the Immigration*
13 *and Nationality Act (8 U.S.C.*
14 *1324a(h)(3))).*

15 *(ii) EVIDENCE OF APPLICATION FIL-*
16 *ING.—As soon as practicable after receiving*
17 *each application for blue card status, the*
18 *Secretary shall provide the applicant with a*
19 *document acknowledging the receipt of such*
20 *application.*

21 *(iii) CONTINUING EMPLOYMENT.—An*
22 *employer who knows an alien employee is*
23 *an applicant for blue card status or will*
24 *apply for such status once the application*
25 *period commences is not in violation of sec-*

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1 (C) *CLEARANCES.*—

2 (i) *DATA COLLECTION.*—*The Secretary*
3 *shall collect, from each alien applying for*
4 *status under this section, biometric, bio-*
5 *graphic, and other data that the Secretary*
6 *determines to be appropriate—*

7 (I) *to conduct national security*
8 *and law enforcement clearances; and*

9 (II) *to determine whether there*
10 *are any national security or law en-*
11 *forcement factors that would render an*
12 *alien ineligible for such status.*

13 (ii) *PREREQUISITE.*—*The required*
14 *clearances described in clause (i)(I) shall be*
15 *completed before the alien may be granted*
16 *blue card status.*

17 (8) *DURATION OF STATUS.*—*After the date that*
18 *is 8 years after the date regulations are published*
19 *under this section, no alien may remain in blue card*
20 *status.*

21 (9) *FEEES AND PENALTIES.*—

22 (A) *STANDARD PROCESSING FEE.*—

23 (i) *IN GENERAL.*—*Aliens who are 16*
24 *years of age or older and are applying for*
25 *blue card status under paragraph (2), or for*

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1 *an extension of such status, shall pay a*
2 *processing fee to the Department in an*
3 *amount determined by the Secretary.*

4 *(ii) RECOVERY OF COSTS.—The proc-*
5 *essing fee authorized under clause (i) shall*
6 *be set at a level that is sufficient to recover*
7 *the full costs of processing the application,*
8 *including any costs incurred—*

9 *(I) to adjudicate the application;*

10 *(II) to take and process bio-*
11 *metrics;*

12 *(III) to perform national security*
13 *and criminal checks, including adju-*
14 *dication;*

15 *(IV) to prevent and investigate*
16 *fraud; and*

17 *(V) to administer the collection of*
18 *such fee.*

19 *(iii) AUTHORITY TO LIMIT FEES.—The*
20 *Secretary, by regulation, may—*

21 *(I) limit the maximum processing*
22 *fee payable under this subparagraph*
23 *by a family, including spouses and un-*
24 *married children younger than 21*
25 *years of age; and*

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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 subparagraph
6 (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 subparagraph
15 (A), aliens who are 21 years of age or older
16 and are applying for blue card status under
17 paragraph (2) shall pay a \$100 penalty to
18 the Department.

19 (ii) DEPOSIT.—Penalties collected pur-
20 suant to clause (i) shall be deposited into
21 the Comprehensive Immigration Reform
22 Trust Fund established under section
23 6(a)(1).

24 (10) ADJUDICATION.—

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1 (A) *FAILURE TO SUBMIT SUFFICIENT EVIDENCE.*—*The Secretary shall deny an application submitted by an alien who fails to submit—*

2
3
4 (i) *requested initial evidence, including*
5 *requested biometric data; or*

6 (ii) *any requested additional evidence*
7 *by the date required by the Secretary.*

8 (B) *AMENDED APPLICATION.*—*An alien*
9 *whose application for blue card status is denied*
10 *under subparagraph (A) may file an amended*
11 *application for such status to the Secretary if the*
12 *amended application—*

13 (i) *is filed within the application pe-*
14 *riod described in paragraph (3); and*

15 (ii) *contains all the required informa-*
16 *tion and fees that were missing from the*
17 *initial application.*

18 (11) *EVIDENCE OF BLUE CARD STATUS.*—

19 (A) *IN GENERAL.*—*The Secretary shall issue*
20 *documentary evidence of blue card status to each*
21 *alien whose application for such status has been*
22 *approved.*

23 (B) *DOCUMENTATION FEATURES.*—*Docu-*
24 *mentary evidence provided under subparagraph*
25 *(A)—*

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1 (i) shall be machine-readable and tam-
2 per-resistant, and shall contain a digitized
3 photograph;

4 (ii) shall, during the alien's authorized
5 period of admission, and any extension of
6 such authorized admission, serve as a valid
7 travel and entry document for the purpose
8 of applying for admission to the United
9 States;

10 (iii) may be accepted during the period
11 of its validity by an employer as evidence
12 of employment authorization and identity
13 under section 274A(b)(1)(B) of the Immi-
14 gration and Nationality Act (8 U.S.C.
15 1324a(b)(1)(B)); and

16 (iv) shall include such other features
17 and information as the Secretary may pre-
18 scribe.

19 (c) *TERMS AND CONDITIONS OF BLUE CARD STA-*
20 *TUS.—*

21 (1) *CONDITIONS OF BLUE CARD STATUS.—*

22 (A) *EMPLOYMENT.—Notwithstanding any*
23 *other provision of law, including section*
24 *241(a)(7) of the Immigration and Nationality*
25 *Act (8 U.S.C. 1231(a)(7)), an alien with blue*

1 *card status shall be authorized to be employed in*
2 *the United States while in such status.*

3 *(B) TRAVEL OUTSIDE THE UNITED*
4 *STATES.—An alien with blue card status may*
5 *travel outside of the United States and may be*
6 *admitted, if otherwise admissible, upon return-*
7 *ing to the United States without having to ob-*
8 *tain a visa if—*

9 *(i) the alien is in possession of—*

10 *(I) valid, unexpired documentary*
11 *evidence of blue card status that com-*
12 *plies with subsection (b)(11); or*

13 *(II) a travel document that has*
14 *been approved by the Secretary and*
15 *was issued to the alien after the alien's*
16 *original documentary evidence was*
17 *lost, stolen, or destroyed;*

18 *(ii) the alien's absence from the United*
19 *States did not exceed 180 days, unless the*
20 *alien's failure to timely return was due to*
21 *extenuating circumstances beyond the*
22 *alien's control; and*

23 *(iii) the alien establishes that the alien*
24 *is not inadmissible under subparagraph*
25 *(A)(i), (A)(iii), (B), or (C) of section*

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1 (ii) knowingly used documentation
2 issued under this section for an unlawful or
3 fraudulent purpose; or

4 (iii) was absent from the United States
5 for—

6 (I) any single period longer than
7 180 days in violation of the require-
8 ment under paragraph (1)(B)(ii); or

9 (II) for more than 180 days in the
10 aggregate during any calendar year,
11 unless the alien's failure to timely re-
12 turn was due to extenuating cir-
13 cumstances beyond the alien's control.

14 (B) ADDITIONAL EVIDENCE.—

15 (i) IN GENERAL.—In determining
16 whether to revoke an alien's status under
17 subparagraph (A), the Secretary may re-
18 quire the alien—

19 (I) to submit additional evidence;

20 or

21 (II) to appear for an interview.

22 (ii) EFFECT OF NONCOMPLIANCE.—The
23 status of an alien who fails to comply with
24 any requirement imposed by the Secretary
25 under clause (i) shall be revoked unless the

1 *alien demonstrates to the Secretary's satis-*
2 *faction that such failure was reasonably ex-*
3 *cusable.*

4 (C) *INVALIDATION OF DOCUMENTATION.—If*
5 *an alien's blue card status is revoked under sub-*
6 *paragraph (A), any documentation issued by the*
7 *Secretary to such alien under subsection (b)(11)*
8 *shall automatically be rendered invalid for any*
9 *purpose except for departure from the United*
10 *States.*

11 (3) *INELIGIBILITY FOR PUBLIC BENEFITS.—An*
12 *alien who has been granted blue card status is not eli-*
13 *gible for any Federal means-tested public benefit (as*
14 *such term is defined and implemented in section 403*
15 *of the Personal Responsibility and Work Opportunity*
16 *Reconciliation Act of 1996 (8 U.S.C. 1613)).*

17 (4) *TREATMENT OF BLUE CARD STATUS.—A*
18 *noncitizen granted blue card status shall be consid-*
19 *ered lawfully present in the United States for all pur-*
20 *poses while such noncitizen remains in such status,*
21 *except that the noncitizen—*

22 (A) *is not entitled to the premium assist-*
23 *ance tax credit authorized under section 36B of*
24 *the Internal Revenue Code of 1986 for his or her*
25 *coverage;*

1 (B) shall be subject to the rules applicable
2 to individuals who are not lawfully present set
3 forth in subsection (e) of such section;

4 (C) shall be subject to the rules applicable to
5 individuals who are not lawfully present set
6 forth in section 1402(e) of the Patient Protection
7 and Affordable Care Act (42 U.S.C. 18071(e));
8 and

9 (D) shall be subject to the rules applicable
10 to individuals not lawfully present set forth in
11 section 5000A(d)(3) of the Internal Revenue Code
12 of 1986.

13 (5) *ADJUSTMENT TO REGISTERED PROVISIONAL*
14 *IMMIGRANT STATUS.*—The Secretary may adjust the
15 status of an alien who has been granted blue card sta-
16 tus to the status of a registered provisional immi-
17 grant under section 245B of the Immigration and
18 Nationality Act if the Secretary determines that the
19 alien is unable to fulfill the agricultural service re-
20 quirement set forth in section 245F(a)(1) of such Act.

21 (d) *RECORD OF EMPLOYMENT.*—

22 (1) *IN GENERAL.*—Each employer of an alien
23 granted blue card status shall annually provide—

24 (A) a written record of employment to the
25 alien; and

1 (B) a copy of such record to the Secretary
2 of Agriculture.

3 (2) CIVIL PENALTIES.—

4 (A) IN GENERAL.—If the Secretary finds,
5 after notice and an opportunity for a hearing,
6 that an employer of an alien granted blue card
7 status has knowingly failed to provide the record
8 of employment required under paragraph (1) or
9 has provided a false statement of material fact in
10 such a record, the employer shall be subject to a
11 civil penalty in an amount not to exceed \$500
12 per violation.

13 (B) LIMITATION.—The penalty under sub-
14 paragraph (A) for failure to provide employment
15 records shall not apply unless the alien has pro-
16 vided the employer with evidence of employment
17 authorization provided under subsection (c).

18 (C) DEPOSIT OF CIVIL PENALTIES.—Civil
19 penalties collected under this paragraph shall be
20 deposited in the Comprehensive Immigration Re-
21 form Trust Fund established under section
22 6(a)(1).

23 (3) TERMINATION OF OBLIGATION.—The obliga-
24 tion under paragraph (1) shall terminate on the date

1 *that is 8 years after the date of the enactment of this*
2 *Act.*

3 (4) *EMPLOYER PROTECTIONS.—*

4 (A) *USE OF EMPLOYMENT RECORDS.—Cop-*
5 *ies of employment records or other evidence of*
6 *employment provided by an alien or by an*
7 *alien's employer in support of an alien's appli-*
8 *cation for blue card status may not be used in*
9 *a civil or criminal prosecution or investigation*
10 *of that employer under section 274A of the Im-*
11 *migration and Nationality Act (8 U.S.C. 1324a)*
12 *or the Internal Revenue Code of 1986 for the*
13 *prior unlawful employment of that alien regard-*
14 *less of the adjudication of such application or re-*
15 *consideration by the Secretary of such alien's*
16 *prima facie eligibility determination. Employers*
17 *that provide unauthorized aliens with copies of*
18 *employment records or other evidence of employ-*
19 *ment pursuant to an application for blue card*
20 *status shall not be subject to civil and criminal*
21 *liability pursuant to such section 274A for em-*
22 *ploying such unauthorized aliens.*

23 (B) *LIMIT ON APPLICABILITY.—The protec-*
24 *tions for employers and aliens under subpara-*
25 *graph (A) shall not apply if the aliens or em-*

1 *employers submit employment records that are*
2 *deemed to be fraudulent.*

3 *(e) RULEMAKING.—Not later than 1 year after the date*
4 *of the enactment of this Act, the Secretary, in consultation*
5 *with the Secretary of Agriculture, shall issue final regula-*
6 *tions to implement this chapter.*

7 **SEC. 2212. ADJUSTMENT TO PERMANENT RESIDENT STA-**
8 **TUS.**

9 *(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255*
10 *et seq.) is amended by inserting after section 245E, as*
11 *added by section 2104 of this Act, the following:*

12 **“SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STA-**
13 **TUS FOR AGRICULTURAL WORKERS.**

14 *“(a) IN GENERAL.—Except as provided in subsection*
15 *(b), and not earlier than 5 years after the date of the enact-*
16 *ment of the Border Security, Economic Opportunity, and*
17 *Immigration Modernization Act, the Secretary shall adjust*
18 *the status of an alien granted blue card status to that of*
19 *an alien lawfully admitted for permanent residence if the*
20 *Secretary determines that the following requirements are*
21 *satisfied:*

22 *“(1) QUALIFYING EMPLOYMENT.—Except as pro-*
23 *vided in paragraph (3), the alien—*

24 *“(A) during the 8-year period beginning on*
25 *the date of the enactment of the Border Security,*

1 *Economic Opportunity, and Immigration Mod-*
2 *ernization Act, performed not less than 100 work*
3 *days of agricultural employment during each of*
4 *5 years; or*

5 “(B) *during the 5-year period beginning on*
6 *such date of enactment, performed not less than*
7 *150 work days of agricultural employment dur-*
8 *ing each of 3 years.*

9 “(2) *EVIDENCE.—An alien may demonstrate*
10 *compliance with the requirement under paragraph (1)*
11 *by submitting—*

12 “(A) *the record of employment described in*
13 *section 2211(d) of the Border Security, Economic*
14 *Opportunity, and Immigration Modernization*
15 *Act;*

16 “(B) *documentation that may be submitted*
17 *under subsection (e)(4); or*

18 “(C) *any other documentation designated*
19 *by the Secretary for such purpose.*

20 “(3) *EXTRAORDINARY CIRCUMSTANCES.—*

21 “(A) *IN GENERAL.—In determining whether*
22 *an alien has met the requirement under para-*
23 *graph (1), the Secretary may credit the alien*
24 *with not more than 12 additional months of ag-*
25 *ricultural employment in the United States to*

1 *meet such requirement if the alien was unable to*
2 *work in agricultural employment due to—*

3 *“(i) pregnancy, disabling injury, or*
4 *disease that the alien can establish through*
5 *medical records;*

6 *“(ii) illness, disease, or other special*
7 *needs of a child that the alien can establish*
8 *through medical records;*

9 *“(iii) severe weather conditions that*
10 *prevented the alien from engaging in agri-*
11 *cultural employment for a significant pe-*
12 *riod of time; or*

13 *“(iv) termination from agricultural*
14 *employment, if the Secretary determines*
15 *that—*

16 *“(I) the termination was without*
17 *just cause; and*

18 *“(II) the alien was unable to find*
19 *alternative agricultural employment*
20 *after a reasonable job search.*

21 *“(B) EFFECT OF DETERMINATION.—A de-*
22 *termination under subparagraph (A)(iv), with*
23 *respect to an alien, shall not be conclusive, bind-*
24 *ing, or admissible in a separate or subsequent*
25 *judicial or administrative action or proceeding*

1 *between the alien and a current or prior em-*
2 *ployer of the alien or any other party.*

3 “(4) *APPLICATION PERIOD.*—*The alien applies*
4 *for adjustment of status before the alien’s blue card*
5 *status expires.*

6 “(5) *FINE.*—*The alien pays a fine of \$400 to the*
7 *Secretary, which shall be deposited into the Com-*
8 *prehensive Immigration Reform Trust Fund estab-*
9 *lished under section 6(a)(1) of the Border Security,*
10 *Economic Opportunity, and Immigration Moderniza-*
11 *tion Act.*

12 “(b) *GROUND FOR DENIAL OF ADJUSTMENT OF STA-*
13 *TUS.*—

14 “(1) *IN GENERAL.*—*The Secretary may not ad-*
15 *just the status of an alien granted blue card status if*
16 *the alien—*

17 “(A) *is no longer eligible for blue card sta-*
18 *tus; or*

19 “(B) *failed to perform the qualifying em-*
20 *ployment requirement under subsection (a)(1),*
21 *considering any amount credited by the Sec-*
22 *retary under subsection (a)(3).*

23 “(2) *MAINTENANCE OF WAIVERS OF INADMIS-*
24 *SIBILITY.*—*The grounds of inadmissibility set forth in*
25 *section 212(a) that were previously waived for the*

1 *alien or made inapplicable shall not apply for pur-*
2 *poses of the alien's adjustment of status under this*
3 *section.*

4 *“(3) PENDING REVOCATION PROCEEDINGS.—If*
5 *the Secretary has notified the applicant that the Sec-*
6 *retary intends to revoke the applicant's blue card sta-*
7 *tus, the Secretary may not approve an application*
8 *for adjustment of status under this section unless the*
9 *Secretary makes a final determination not to revoke*
10 *the applicant's status.*

11 *“(4) PAYMENT OF TAXES.—*

12 *“(A) IN GENERAL.—An applicant may not*
13 *file an application for adjustment of status*
14 *under this section unless the applicant has satis-*
15 *fied any applicable Federal tax liability.*

16 *“(B) DEFINITION OF APPLICABLE FEDERAL*
17 *TAX LIABILITY.—In this paragraph, the term*
18 *‘applicable federal tax liability’ means all Fed-*
19 *eral income taxes assessed in accordance with*
20 *section 6203 of the Internal Revenue Code of*
21 *1986 since the date on which the applicant was*
22 *authorized to work in the United States in blue*
23 *card status.*

24 *“(C) COMPLIANCE.—The applicant may*
25 *demonstrate compliance with subparagraph (A)*

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1 *by submitting such documentation as the Sec-*
2 *retary, in consultation with the Secretary of the*
3 *Treasury, may require by regulation.*

4 “(c) *SPOUSES AND CHILDREN.*—*Notwithstanding any*
5 *other provision of law, the Secretary shall grant permanent*
6 *resident status to the spouse or child of an alien whose sta-*
7 *tus was adjusted under subsection (a) if—*

8 “(1) *the spouse or child (including any indi-*
9 *vidual who was a child on the date such alien was*
10 *granted blue card status) applies for such status;*

11 “(2) *the principal alien includes the spouse and*
12 *children in an application for adjustment of status to*
13 *that of a lawful permanent resident; and*

14 “(3) *the spouse or child is not ineligible for such*
15 *status under section 245B.*

16 “(d) *NUMERICAL LIMITATIONS DO NOT APPLY.*—*The*
17 *numerical limitations under sections 201 and 202 shall not*
18 *apply to the adjustment of aliens to lawful permanent resi-*
19 *dent status under this section.*

20 “(e) *SUBMISSION OF APPLICATIONS.*—

21 “(1) *INTERVIEW.*—*The Secretary may interview*
22 *applicants for adjustment of status under this section*
23 *to determine whether they meet the eligibility require-*
24 *ments set forth in this section.*

25 “(2) *FEEES.*—

1 “(A) *IN GENERAL.*—*Applicants for adjust-*
2 *ment of status under this section shall pay a*
3 *processing fee to the Secretary in an amount*
4 *that will ensure the recovery of the full costs of*
5 *adjudicating such applications, including—*

6 “(i) *the cost of taking and processing*
7 *biometrics;*

8 “(ii) *expenses relating to prevention*
9 *and investigation of fraud; and*

10 “(iii) *costs relating to the administra-*
11 *tion of the fees collected.*

12 “(B) *AUTHORITY TO LIMIT FEES.*—*The Sec-*
13 *retary, by regulation—*

14 “(i) *may limit the maximum proc-*
15 *essing fee payable under this paragraph by*
16 *a family, including spouses and unmarried*
17 *children younger than 21 years of age; and*

18 “(ii) *may exempt individuals described*
19 *in section 245B(c)(10) and other defined*
20 *classes of individuals from the payment of*
21 *the fee under subparagraph (A).*

22 “(3) *DISPOSITION OF FEES.*—*All fees collected*
23 *under paragraph (2)(A)—*

1 “(A) shall be deposited into the Immigra-
2 tion Examinations Fee Account pursuant to sec-
3 tion 286(m); and

4 “(B) shall remain available until expended
5 pursuant to section 286(n).

6 “(4) DOCUMENTATION OF WORK HISTORY.—

7 “(A) BURDEN OF PROOF.—An alien apply-
8 ing for blue card status under section 2211 of the
9 Border Security, Economic Opportunity, and
10 Immigration Modernization Act or for adjust-
11 ment of status under subsection (a) shall provide
12 evidence that the alien has worked the requisite
13 number of hours or days required under sub-
14 section (a)(1) of such section 2211 or subsection
15 (a)(3) of this section, as applicable.

16 “(B) TIMELY PRODUCTION OF RECORDS.—If
17 an employer or farm labor contractor employing
18 such an alien has kept proper and adequate
19 records respecting such employment, the alien’s
20 burden of proof under subparagraph (A) may be
21 met by securing timely production of those
22 records under regulations to be promulgated by
23 the Secretary.

24 “(C) SUFFICIENT EVIDENCE.—An alien
25 may meet the burden of proof under subpara-

1 *graph (A) to establish that the alien has per-*
2 *formed the days or hours of work referred to in*
3 *subparagraph (A) by producing sufficient evi-*
4 *dence to show the extent of that employment as*
5 *a matter of just and reasonable inference.*

6 “(f) *PENALTIES FOR FALSE STATEMENTS IN APPLICA-*
7 *TIONS.—*

8 “(1) *CRIMINAL PENALTY.—Any person who—*

9 “(A) *files an application for blue card sta-*
10 *tus under section 2211 of the Border Security,*
11 *Economic Opportunity, and Immigration Mod-*
12 *ernization Act or an adjustment of status under*
13 *this section and knowingly and willfully falsifies,*
14 *conceals, or covers up a material fact or makes*
15 *any false, fictitious, or fraudulent statements or*
16 *representations, or makes or uses any false writ-*
17 *ing or document knowing the same to contain*
18 *any false, fictitious, or fraudulent statement or*
19 *entry; or*

20 “(B) *creates or supplies a false writing or*
21 *document for use in making such an application,*
22 *shall be fined in accordance with title 18, United*
23 *States Code, imprisoned not more than 5 years, or*
24 *both.*

1 “(2) *INADMISSIBILITY.*—An alien who is con-
2 victed of a crime under paragraph (1) shall be
3 deemed inadmissible to the United States on the
4 ground described in section 212(a)(6)(C)(i).

5 “(3) *DEPOSIT.*—Fines collected under paragraph
6 (1) shall be deposited into the Comprehensive Immi-
7 gration Reform Trust Fund established under section
8 6(a)(1) of the Border Security, Economic Oppor-
9 tunity, and Immigration Modernization Act.

10 “(g) *ELIGIBILITY FOR LEGAL SERVICES.*—Section
11 504(a)(11) of the Departments of Commerce, Justice, and
12 State, the Judiciary, and Related Agencies Appropriations
13 Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may
14 not be construed to prevent a recipient of funds under the
15 Legal Services Corporation Act (42 U.S.C. 2996 et seq.)
16 from providing legal assistance directly related to an appli-
17 cation for blue card status under section 2211 of the Border
18 Security, Economic Opportunity, and Immigration Mod-
19 ernization Act, to an individual who has been granted blue
20 card status, or for an application for an adjustment of sta-
21 tus under this section.

22 “(h) *ADMINISTRATIVE AND JUDICIAL REVIEW.*—Aliens
23 applying for blue card status under section 2211 of the Bor-
24 der Security, Economic Opportunity, and Immigration
25 Modernization Act or adjustment to permanent resident

1 *status under this section shall be entitled to the rights and*
2 *subject to the conditions applicable to other classes of aliens*
3 *under sections 242(h) and 245E.*

4 “(i) *APPLICABILITY OF OTHER PROVISIONS.—The*
5 *provisions set forth in section 245E which are applicable*
6 *to aliens described in section 245B, 245C, and 245D shall*
7 *apply to aliens applying for blue card status under section*
8 *2211 of the Border Security, Economic Opportunity, and*
9 *Immigration Modernization Act or adjustment to perma-*
10 *nent resident status under this section.*

11 “(j) *LIMITATION ON BLUE CARD STATUS.—An alien*
12 *granted blue card status under section 2211 of the Border*
13 *Security, Economic Opportunity, and Immigration Mod-*
14 *ernization Act may only adjust status to an alien lawfully*
15 *admitted for permanent residence under this section, section*
16 *245C of this Act, or section 2302 of the Border Security,*
17 *Economic Opportunity, and Immigration Modernization*
18 *Act.*

19 “(k) *DEFINITIONS.—In this section:*

20 “(1) *BLUE CARD STATUS.—The term ‘blue card*
21 *status’ means the status of an alien who has been*
22 *lawfully admitted into the United States for tem-*
23 *porary residence under section 2211 of the Border Se-*
24 *curity, Economic Opportunity, and Immigration*
25 *Modernization Act.*

1 “(2) *AGRICULTURAL EMPLOYMENT.*—*The term*
2 *‘agricultural employment’ has the meaning given such*
3 *term in section 3 of the Migrant and Seasonal Agri-*
4 *cultural Worker Protection Act (29 U.S.C. 1802),*
5 *without regard to whether the specific service or activ-*
6 *ity is temporary or seasonal.*

7 “(3) *EMPLOYER.*—*The term ‘employer’ means*
8 *any person or entity, including any farm labor con-*
9 *tractor and any agricultural association, that em-*
10 *ployes workers in agricultural employment.*

11 “(4) *WORK DAY.*—*The term ‘work day’ means*
12 *any day in which the individual is employed 5.75 or*
13 *more hours in agricultural employment.”.*

14 (b) *CONFORMING AMENDMENT.*—*Section 201(b)(1) (8*
15 *U.S.C. 1151(b)(1), as amended by section 2103(c), is further*
16 *amended by adding at the end the following:*

17 “(G) *Aliens granted lawful permanent resi-*
18 *dent status under section 245F.”.*

19 (c) *CLERICAL AMENDMENT.*—*The table of contents, as*
20 *amended by section 2104(e), is further amended by insert-*
21 *ing after the item relating to section 245E the following:*

 “*Sec. 245F. Adjustment to permanent resident status for agricultural workers.”.*

22 **SEC. 2213. USE OF INFORMATION.**

23 *Beginning not later than the first day of the applica-*
24 *tion period described in section 2211(b)(3), the Secretary,*
25 *in cooperation with qualified designated entities, shall*

1 *broadly disseminate information respecting the benefits that*
2 *aliens may receive under this subchapter and the require-*
3 *ments that an alien is required to meet to receive such bene-*
4 *fits.*

5 **SEC. 2214. REPORTS ON BLUE CARDS.**

6 *Not later than September 30, 2013, and annually*
7 *thereafter for the next 8 years, the Secretary shall submit*
8 *a report to Congress that identifies, for the previous fiscal*
9 *year—*

10 *(1) the number of aliens who applied for blue*
11 *card status;*

12 *(2) the number of aliens who were granted blue*
13 *card status;*

14 *(3) the number of aliens who applied for an ad-*
15 *justment of status pursuant to section 245F(a) of the*
16 *Immigration and Nationality Act, as added by sec-*
17 *tion 2212; and*

18 *(4) the number of aliens who received an adjust-*
19 *ment of status pursuant such section 245F(a).*

20 **SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.**

21 *There are authorized to be appropriated to the Sec-*
22 *retary such sums as may be necessary to implement this*
23 *subchapter, including any sums needed for costs associated*
24 *with the initiation of such implementation, for fiscal years*
25 *2013 and 2014.*

1 ***Subchapter B—Correction of Social Security***
2 ***Records***

3 ***SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.***

4 (a) *IN GENERAL.*—Section 208(e)(1) of the Social Se-
5 *curity Act (42 U.S.C. 408(e)(1)) is amended—*

6 (1) *in subparagraph (B)(ii), by striking “or” at*
7 *the end;*

8 (2) *in subparagraph (C), by inserting “or” at*
9 *the end;*

10 (3) *by inserting after subparagraph (C) the fol-*
11 *lowing:*

12 *“(D) who is granted blue card status under*
13 *the Agricultural Worker Program Act of 2013,”;*
14 *and*

15 (4) *by striking “1990.” and inserting “1990, or*
16 *in the case of an alien described in subparagraph*
17 *(D), if such conduct is alleged to have occurred before*
18 *the date on which the alien was granted blue card*
19 *status under section 2211(a) of the Agricultural*
20 *Worker Program Act of 2013.”.*

21 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
22 *section (a) shall take effect on the first day of the seventh*
23 *month that begins after the date of the enactment of this*
24 *Act.*

1 “(II) *who meets the requirements*
2 *under section 218A for a nonimmigrant*
3 *visa described in this clause.”.*

4 **SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICUL-**
5 **TURAL WORKER PROGRAM.**

6 (a) *IN GENERAL.*—Chapter 2 of title II (8 U.S.C. 1181
7 *et seq.*) is amended by inserting after section 218 the fol-
8 *lowing:*

9 **“SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PRO-**
10 **GRAM.**

11 “(a) *DEFINITIONS.*—In this section and in clauses (iii)
12 *and (iv) of section 101(a)(15)(W):*

13 “(1) *AGRICULTURAL EMPLOYMENT.*—The term
14 ‘*agricultural employment*’ has the meaning given such
15 *term in section 3 of the Migrant and Seasonal Agri-*
16 *cultural Worker Protection Act (29 U.S.C. 1802),*
17 *without regard to whether the specific service or activ-*
18 *ity is temporary or seasonal.*

19 “(2) *AT-WILL AGRICULTURAL WORKER.*—The
20 term ‘*at-will agricultural worker*’ means an alien
21 *present in the United States pursuant to section*
22 *101(a)(15)(W)(iv).*

23 “(3) *BLUE CARD.*—The term ‘*blue card*’ means
24 *an employment authorization and travel document*
25 *issued to an alien granted blue card status under sec-*

1 *tion 2211(a) of the Agricultural Worker Program Act*
2 *of 2013.*

3 “(4) *CONTRACT AGRICULTURAL WORKER.*—*The*
4 *term ‘contract agricultural worker’ means an alien*
5 *present in the United States pursuant to section*
6 *101(a)(15)(W)(iii).*

7 “(5) *DESIGNATED AGRICULTURAL EMPLOYER.*—
8 *The term ‘designated agricultural employer’ means an*
9 *employer who is registered with the Secretary of Agri-*
10 *culture pursuant to subsection (e)(1).*

11 “(6) *ELECTRONIC JOB REGISTRY.*—*The term*
12 *‘Electronic Job Registry’ means the Electronic Job*
13 *Registry of a State workforce agency (or similar suc-*
14 *cessor registry).*

15 “(7) *EMPLOYER.*—*Except as otherwise provided,*
16 *the term ‘employer’ means any person or entity, in-*
17 *cluding any farm labor contractor and any agricul-*
18 *tural association, that employs workers in agricul-*
19 *tural employment.*

20 “(8) *NONIMMIGRANT AGRICULTURAL WORKER.*—
21 *The term ‘nonimmigrant agricultural worker’ mean a*
22 *nonimmigrant described in clause (iii) or (iv) of sec-*
23 *tion 101(a)(15)(W).*

1 “(9) *PROGRAM.*—*The term ‘Program’ means the*
2 *Nonimmigrant Agricultural Worker Program estab-*
3 *lished under subsection (b).*

4 “(10) *SECRETARY.*—*Except as otherwise specifi-*
5 *cally provided, the term ‘Secretary’ means the Sec-*
6 *retary of Agriculture.*

7 “(11) *UNITED STATES WORKER.*—*The term*
8 *‘United States worker’ means an individual who—*

9 “(A) *is a national of the United States; or*

10 “(B) *is an alien who—*

11 “(i) *is lawfully admitted for perma-*
12 *nent residence;*

13 “(ii) *is admitted as a refugee under*
14 *section 207;*

15 “(iii) *is granted asylum under section*
16 *208;*

17 “(iv) *holds a blue card; or*

18 “(v) *is an immigrant otherwise author-*
19 *ized by this Act or by the Secretary of*
20 *Homeland Security to be employed in the*
21 *United States.*

22 “(b) *REQUIREMENTS.*—

23 “(1) *EMPLOYER.*—*An employer may not employ*
24 *an alien for agricultural employment under the Pro-*
25 *gram unless such employer is a designated agricul-*

1 *tural employer and complies with the terms of this*
2 *section.*

3 “(2) *WORKER.*—*An alien may not be employed*
4 *for agricultural employment under the Program un-*
5 *less such alien is a nonimmigrant agricultural worker*
6 *and complies with the terms of this section.*

7 “(c) *NUMERICAL LIMITATION.*—

8 “(1) *FIRST 5 YEARS OF PROGRAM.*—

9 “(A) *IN GENERAL.*—*Subject to paragraph*
10 *(2), the worldwide level of visas for non-*
11 *immigrant agricultural workers for the fiscal*
12 *year during which the first visa is issued to a*
13 *nonimmigrant agricultural worker and for each*
14 *of the following 4 fiscal years shall be equal to—*

15 “(i) *112,333; and*

16 “(ii) *the numerical adjustment made*
17 *by the Secretary for such fiscal year in ac-*
18 *cordance with paragraph (2).*

19 “(B) *QUARTERLY ALLOCATION.*—*The an-*
20 *annual allocation of visas described in subpara-*
21 *graph (A) shall be evenly allocated between the*
22 *4 quarters of the fiscal year unless the Secretary*
23 *determines that an alternative allocation would*
24 *better accommodate the seasonal demand for*
25 *visas. Any unused visas in a quarter shall be*

1 *added to the allocation for the subsequent quarter*
2 *of the same fiscal year.*

3 “(C) *EFFECT OF 2ND OR SUBSEQUENT DES-*
4 *IGNATED AGRICULTURAL EMPLOYER.—A non-*
5 *immigrant agricultural worker who has a valid*
6 *visa issued under this section that counted*
7 *against the allocation described in subparagraph*
8 *(A) shall not be recounted against the allocation*
9 *if the worker is petitioned for by a subsequent*
10 *designated agricultural employer.*

11 “(2) *ANNUAL ADJUSTMENTS FOR FIRST 5 YEARS*
12 *OF PROGRAM.—*

13 “(A) *IN GENERAL.—The Secretary, in con-*
14 *sultation with the Secretary of Labor, and after*
15 *reviewing relevant evidence submitted by agricul-*
16 *tural producers and organizations representing*
17 *agricultural workers, may increase or decrease,*
18 *as appropriate, the worldwide level of visas*
19 *under paragraph (1) for each of the 5 fiscal*
20 *years referred to in paragraph (1) after consid-*
21 *ering appropriate factors, including—*

22 “(i) *a demonstrated shortage of agri-*
23 *cultural workers;*

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1 “(ii) the level of unemployment and
2 underemployment of agricultural workers
3 during the preceding fiscal year;

4 “(iii) the number of applications for
5 blue card status;

6 “(iv) the number of blue card visa ap-
7 plications approved;

8 “(v) the number of nonimmigrant ag-
9 ricultural workers sought by employers dur-
10 ing the preceding fiscal year;

11 “(vi) the estimated number of United
12 States workers, including blue card workers,
13 who worked in agriculture during the pre-
14 ceding fiscal year;

15 “(vii) the number of nonimmigrant ag-
16 ricultural workers issued a visa in the most
17 recent fiscal year who remain in the United
18 States in compliance with the terms of such
19 visa;

20 “(viii) the number of United States
21 workers who accepted jobs offered by em-
22 ployers using the Electronic Job Registry
23 during the preceding fiscal year;

24 “(ix) any growth or contraction of the
25 United States agricultural industry that

1 *has increased or decreased the demand for*
2 *agricultural workers; and*

3 “(x) *any changes in the real wages*
4 *paid to agricultural workers in the United*
5 *States as an indication of a shortage or sur-*
6 *plus of agricultural labor.*

7 “(B) *NOTIFICATION; IMPLEMENTATION.—*
8 *The Secretary shall notify the Secretary of*
9 *Homeland Security of any change to the world-*
10 *wide level of visas for nonimmigrant agricul-*
11 *tural workers. The Secretary of Homeland Secu-*
12 *rity shall implement such changes.*

13 “(C) *EMERGENCY PROCEDURES.—The Sec-*
14 *retary shall establish, by regulation, procedures*
15 *for immediately adjusting an annual allocation*
16 *under paragraph (1) for labor shortages, as de-*
17 *termined by the Secretary. The Secretary shall*
18 *make a decision on a petition for an adjustment*
19 *of status not later than 30 days after receiving*
20 *such petition.*

21 “(3) *SIXTH AND SUBSEQUENT YEARS OF PRO-*
22 *GRAM.—The Secretary, in consultation with the Sec-*
23 *retary of Labor, shall establish the worldwide level of*
24 *visas for nonimmigrant agricultural workers for each*
25 *fiscal year following the fiscal years referred to in*

1 *paragraph (1) after considering appropriate factors,*
2 *including—*

3 *“(A) a demonstrated shortage of agricul-*
4 *tural workers;*

5 *“(B) the level of unemployment and under-*
6 *employment of agricultural workers during the*
7 *preceding fiscal year;*

8 *“(C) the number of applications for blue*
9 *card status;*

10 *“(D) the number of blue card visa applica-*
11 *tions approved;*

12 *“(E) the number of nonimmigrant agricul-*
13 *tural workers sought by employers during the*
14 *preceding fiscal year;*

15 *“(F) the estimated number of United States*
16 *workers, including blue card workers, who*
17 *worked in agriculture during the preceding fiscal*
18 *year;*

19 *“(G) the number of nonimmigrant agricul-*
20 *tural workers issued a visa in the most recent*
21 *fiscal year who remain in the United States in*
22 *compliance with the terms of such visa;*

23 *“(H) the number of United States workers*
24 *who accepted jobs offered by employers using the*

1 *Electronic Job Registry during the preceding fis-*
2 *cal year;*

3 “(I) *any growth or contraction of the*
4 *United States agricultural industry that has in-*
5 *creased or decreased the demand for agricultural*
6 *workers; and*

7 “(J) *any changes in the real wages paid to*
8 *agricultural workers in the United States as an*
9 *indication of a shortage or surplus of agricul-*
10 *tural labor.*

11 “(4) *EMERGENCY PROCEDURES.—The Secretary*
12 *shall establish, by regulation, procedures for imme-*
13 *diately adjusting an annual allocation under para-*
14 *graph (3) for labor shortages, as determined by the*
15 *Secretary. The Secretary shall make a decision on a*
16 *petition for an adjustment of status not later than 30*
17 *days after receiving such petition*

18 “(d) *REQUIREMENTS FOR NONIMMIGRANT AGRICUL-*
19 *TURAL WORKERS.—*

20 “(1) *ELIGIBILITY FOR NONIMMIGRANT AGRICUL-*
21 *TURAL WORKER STATUS.—*

22 “(A) *IN GENERAL.—An alien is not eligible*
23 *to be admitted to the United States as a non-*
24 *immigrant agricultural worker if the alien—*

1 “(i) violated a material term or condi-
2 tion of a previous admission as a non-
3 immigrant agricultural worker during the
4 most recent 3-year period (other than a con-
5 tract agricultural worker who voluntarily
6 abandons his or her employment before the
7 end of the contract period or whose employ-
8 ment is terminated by the employer for
9 cause);

10 “(ii) has not obtained successful clear-
11 ance of any security and criminal back-
12 ground checks required by the Secretary of
13 Homeland Security or any other examina-
14 tion required under this Act; or

15 “(iii)(I) departed from the United
16 States while subject to an order of exclusion,
17 deportation, or removal, or pursuant to an
18 order of voluntary departure; and

19 “(II)(aa) is outside of the United
20 States; or

21 “(bb) has reentered the United States
22 illegally after December 31, 2012, without
23 receiving consent to the alien’s reapplica-
24 tion for admission under section 212(a)(9).

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1 “(B) *WAIVER.*—*The Secretary of Homeland*
2 *Security may waive the application of subpara-*
3 *graph (A)(iii) on behalf of an alien if the*
4 *alien—*

5 “(i) *is the spouse or child of a United*
6 *States citizen or lawful permanent resident;*

7 “(ii) *is the parent of a child who is a*
8 *United States citizen or lawful permanent*
9 *resident;*

10 “(iii) *meets the requirements set forth*
11 *in clause (i) or (ii) of section*
12 *245D(b)(1)(A); or*

13 “(iv)(I) *meets the requirements set*
14 *forth in section 245D(b)(1)(A)(ii);*

15 “(II) *is 16 years or older on the date*
16 *on which the alien applies for non-*
17 *immigrant agricultural status; and*

18 “(III) *was physically present in the*
19 *United States for an aggregate period of not*
20 *less than 3 years during the 6-year period*
21 *immediately preceding the date of the enact-*
22 *ment of this section.*

23 “(2) *TERM OF STAY FOR NONIMMIGRANT AGRI-*
24 *CULTURAL WORKERS.—*

25 “(A) *IN GENERAL.—*

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1 “(i) *INITIAL ADMISSION.*—A non-
2 immigrant agricultural worker may be ad-
3 mitted into the United States in such status
4 for an initial period of 3 years.

5 “(ii) *RENEWAL.*—A nonimmigrant ag-
6 ricultural worker may renew such worker’s
7 period of admission in the United States for
8 1 additional 3-year period.

9 “(B) *BREAK IN PRESENCE.*—A non-
10 immigrant agricultural worker who has been ad-
11 mitted to the United States for 2 consecutive pe-
12 riods under subparagraph (A) is ineligible to
13 renew the alien’s nonimmigrant agricultural
14 worker status until such alien—

15 “(i) returns to a residence outside the
16 United States for a period of not less than
17 3 months; and

18 “(ii) seeks to reenter the United States
19 under the terms of the Program as a non-
20 immigrant agricultural worker.

21 “(3) *LOSS OF STATUS.*—

22 “(A) *IN GENERAL.*—An alien admitted as a
23 nonimmigrant agricultural worker shall be ineli-
24 gible for such status and shall be required to de-
25 part the United States if such alien—

1 “(i) after the completion of his or her
2 contract with a designated agricultural em-
3 ployer, is not employed in agricultural em-
4 ployment by a designated agricultural em-
5 ployer; or

6 “(ii) is an at-will agricultural worker
7 and is not continuously employed by a des-
8 ignated agricultural employer in agricul-
9 tural employment as an at-will agricultural
10 worker.

11 “(B) *EXCEPTION.*—Subject to subparagraph
12 (C), a nonimmigrant agricultural worker has
13 not violated subparagraph (A) if the non-
14 immigrant agricultural worker is not employed
15 in agricultural employment for a period not to
16 exceed 60 days.

17 “(C) *WAIVER.*—Notwithstanding subpara-
18 graph (B), the Secretary of Homeland Security
19 may waive the application of clause (i) or (ii)
20 of subparagraph (A) for a nonimmigrant agri-
21 cultural worker who was not employed in agri-
22 cultural employment for a period of more than
23 60 days if such period of unemployment was due
24 to—

25 “(i) the injury of such worker; or

1 *contract agricultural worker completes*
2 *such contract.*

3 “(ii) *VOLUNTARY ABANDONMENT; TER-*
4 *MINATION FOR CAUSE.—A contract agricul-*
5 *tural worker who voluntarily abandons his*
6 *or her employment before the end of the con-*
7 *tract period or whose employment is termi-*
8 *nated for cause by the employer—*

9 “*(I) may not accept subsequent*
10 *employment with another designated*
11 *agricultural employer without first de-*
12 *parting the United States and reen-*
13 *tering pursuant to a new offer of em-*
14 *ployment; and*

15 “*(II) is not entitled to the 75 per-*
16 *cent payment guarantee described in*
17 *subsection (e)(4)(B).*

18 “(iii) *TERMINATION BY MUTUAL*
19 *AGREEMENT.—The termination of an em-*
20 *ployment contract by mutual agreement of*
21 *the designated agricultural employer and*
22 *the contract agricultural worker shall not be*
23 *considered voluntary abandonment for pur-*
24 *poses of clause (ii).*

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1 “(B) *AT-WILL AGRICULTURAL WORKERS.*—
2 *An alien who entered the United States as an at-*
3 *will agricultural worker may seek employment*
4 *as an at-will agricultural worker with any other*
5 *designated agricultural employer referred to in*
6 *section 101(a)(15)(W)(iv)(I).*

7 “(5) *PROHIBITION ON GEOGRAPHIC LIMITA-*
8 *TION.*—*A nonimmigrant visa issued to a non-*
9 *immigrant agricultural worker—*

10 “(A) *shall not limit the geographical area*
11 *within which such worker may be employed;*

12 “(B) *shall not limit the type of agricultural*
13 *employment such worker may perform; and*

14 “(C) *shall restrict such worker to employ-*
15 *ment with designated agricultural employers.*

16 “(6) *TREATMENT OF SPOUSES AND CHILDREN.*—
17 *A spouse or child of a nonimmigrant agricultural*
18 *worker—*

19 “(A) *shall not be entitled to a visa or any*
20 *immigration status by virtue of the relationship*
21 *of such spouse or child to such worker; and*

22 “(B) *may be provided status as a non-*
23 *immigrant agricultural worker if the spouse or*
24 *child is independently qualified for such status.*

25 “(e) *EMPLOYER REQUIREMENTS.*—

1 “(1) *DESIGNATED AGRICULTURAL EMPLOYER*
2 *STATUS.*—

3 “(A) *REGISTRATION REQUIREMENT.*—*Each*
4 *employer seeking to employ nonimmigrant agri-*
5 *cultural workers shall register for designated ag-*
6 *ricultural employer status by submitting to the*
7 *Secretary, through the Farm Service Agency in*
8 *the geographic area of the employer or electroni-*
9 *cally to the Secretary, a registration that in-*
10 *cludes—*

11 “(i) *the employer’s employer identifica-*
12 *tion number; and*

13 “(ii) *a registration fee, in an amount*
14 *determined by the Secretary, which shall be*
15 *used for the costs of administering the pro-*
16 *gram.*

17 “(B) *CRITERIA.*—*The Secretary shall grant*
18 *designated agricultural employer status to an*
19 *employer who submits a registration for such*
20 *status that includes—*

21 “(i) *documentation that the employer*
22 *is engaged in agriculture;*

23 “(ii) *the estimated number of non-*
24 *immigrant agricultural workers the em-*
25 *ployer will need each year;*

1 “(iii) *the anticipated periods during*
2 *which the employer will need such workers;*
3 *and*

4 “(iv) *documentation establishing need*
5 *for a specified agricultural occupation or*
6 *occupations.*

7 “(C) *DESIGNATION.—*

8 “(i) *REGISTRATION NUMBER.—The*
9 *Secretary shall assign each employer that*
10 *meets the criteria established pursuant to*
11 *subparagraph (B) with a designated agri-*
12 *cultural employer registration number.*

13 “(ii) *TERM OF DESIGNATION.—Each*
14 *employer granted designated agricultural*
15 *employer status under this paragraph shall*
16 *retain such status for a term of 3 years. At*
17 *the end of such 3-year term, the employer*
18 *may renew the registration for another 3-*
19 *year term if the employer meets the require-*
20 *ments set forth in subparagraphs (A) and*
21 *(B).*

22 “(D) *ASSISTANCE.—In carrying out the*
23 *functions described in this subsection, the Sec-*
24 *retary may work through the Farm Service*

1 “(2) *NONIMMIGRANT AGRICULTURAL WORKER*
2 *PETITION PROCESS.*—

3 “(A) *IN GENERAL.*—*Not later than 45 days*
4 *before the date on which nonimmigrant agricul-*
5 *tural workers are needed, a designated agricul-*
6 *tural employer seeking to employ such workers*
7 *shall submit a petition to the Secretary of Home-*
8 *land Security that includes the employer’s des-*
9 *ignated agricultural employer registration num-*
10 *ber.*

11 “(B) *ATTESTATION.*—*An petition submitted*
12 *under subparagraph (A) shall include an attesta-*
13 *tion of the following:*

14 “(i) *The number of named or unnamed*
15 *nonimmigrant agricultural workers the des-*
16 *ignated agricultural employer is seeking to*
17 *employ during the applicable period of em-*
18 *ployment.*

19 “(ii) *The total number of contract ag-*
20 *ricultural workers and of at-will agricul-*
21 *tural workers the employer will require for*
22 *each occupational category.*

23 “(iii) *The anticipated period, includ-*
24 *ing expected beginning and ending dates,*
25 *during which such employees will be needed.*

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1 “(iv) *Evidence of contracts or written*
2 *disclosures of employment terms and condi-*
3 *tions in accordance with the Migrant and*
4 *Seasonal Agricultural Worker Protection*
5 *Act (29 U.S.C. 1801 et seq.), which have*
6 *been disclosed or provided to the non-*
7 *immigrant agricultural workers, or a sam-*
8 *ple of such contract or disclosure for*
9 *unnamed workers.*

10 “(v) *The information submitted to the*
11 *State workforce agency pursuant to para-*
12 *graph (3)(A)(i).*

13 “(vi) *The record of United States work-*
14 *ers described in paragraph (3)(A)(iii) on*
15 *the date of the request.*

16 “(vii) *Evidence of offers of employment*
17 *made to United States workers as required*
18 *under paragraph (3)(B).*

19 “(viii) *The employer will comply with*
20 *the additional program requirements for*
21 *designated agricultural employers described*
22 *in paragraph (4).*

23 “(C) *EMPLOYMENT AUTHORIZATION WHEN*
24 *CHANGING EMPLOYERS.—Nonimmigrant agricul-*
25 *tural workers in the United States who are iden-*

1 *tified in a petition submitted pursuant to sub-*
2 *paragraph (A) and are in lawful status may*
3 *commence employment with their designated ag-*
4 *ricultural employer after such employer has sub-*
5 *mitted such petition to the Secretary of Home-*
6 *land Security.*

7 “(D) *REVIEW.*—*The Secretary of Homeland*
8 *Security shall review each petition submitted by*
9 *designated agricultural employers under this*
10 *paragraph for completeness or obvious inaccura-*
11 *cies. Unless the Secretary of Homeland Security*
12 *determines that the petition is incomplete or ob-*
13 *viously inaccurate, the Secretary shall accept the*
14 *petition. The Secretary shall establish a proce-*
15 *cedure for the processing of petitions filed under*
16 *this subsection. Not later than 7 working days*
17 *after the date of the filing, the Secretary, by elec-*
18 *tronic or other means assuring expedited deliv-*
19 *ery, shall submit a copy of notice of approval or*
20 *denial of the petition to the petitioner and, in*
21 *the case of approved petitions, to the appropriate*
22 *immigration officer at the port of entry or*
23 *United States consulate, as appropriate, if the*
24 *petitioner has indicated that the alien bene-*

1 *record of all eligible, able, willing, and*
2 *qualified United States workers who apply*
3 *for agricultural employment with the em-*
4 *ployer for the agricultural employment for*
5 *which the nonimmigrant agricultural non-*
6 *immigrant workers are sought.*

7 *“(B) REQUIREMENT TO HIRE.—*

8 *“(i) UNITED STATES WORKERS.—An*
9 *employer may not seek a nonimmigrant ag-*
10 *ricultural worker for agricultural employ-*
11 *ment unless the employer offers such em-*
12 *ployment to any equally or better qualified*
13 *United States worker who will be available*
14 *at the time and place of need and who ap-*
15 *plies for such employment during the 45-*
16 *day recruitment period referred to in sub-*
17 *paragraph (A)(i).*

18 *“(ii) EXCEPTION.—Notwithstanding*
19 *clause (i), the employer may offer the job to*
20 *a nonimmigrant agricultural worker in-*
21 *stead of an alien in blue card status if—*

22 *“(I) such worker was previously*
23 *employed by the employer as an H-2A*
24 *worker;*

1 “(II) *such worker worked for the*
2 *employer for 3 years during the most*
3 *recent 4-year period; and*

4 “(III) *the employer pays such*
5 *worker the adverse effect wage rate cal-*
6 *culated under subsection (f)(5)(B).*

7 “(4) *ADDITIONAL PROGRAM REQUIREMENTS FOR*
8 *DESIGNATED AGRICULTURAL EMPLOYERS.—Each des-*
9 *ignated agricultural employer shall comply with the*
10 *following requirements:*

11 “(A) *NO DISPLACEMENT OF UNITED STATES*
12 *WORKERS.—*

13 “(i) *IN GENERAL.—The employer shall*
14 *not displace a United States worker em-*
15 *ployed by the employer, other than for good*
16 *cause, during the period of employment of*
17 *the nonimmigrant agricultural worker and*
18 *for a period of 30 days preceding such pe-*
19 *riod in the occupation and at the location*
20 *of employment for which the employer seeks*
21 *to employ nonimmigrant agricultural work-*
22 *ers.*

23 “(ii) *LABOR DISPUTE.—The employer*
24 *shall not employ a nonimmigrant agricul-*
25 *tural worker for a specific job for which the*

1 *employer is requesting a nonimmigrant ag-*
2 *ricultural worker because the former occu-*
3 *pant of the job is on strike or being locked*
4 *out in the course of a labor dispute.*

5 “(B) *GUARANTEE OF EMPLOYMENT FOR*
6 *CONTRACT AGRICULTURAL WORKERS.—*

7 “(i) *OFFER TO CONTRACT WORKER.—*
8 *The employer shall guarantee to offer con-*
9 *tract agricultural workers employment for*
10 *the hourly equivalent of at least 75 percent*
11 *of the work days of the total period of em-*
12 *ployment, beginning with the first work day*
13 *after the arrival of the worker at the place*
14 *of employment and ending on the expira-*
15 *tion date specified in the job offer. In this*
16 *clause, the term ‘hourly equivalent’ means*
17 *the number of hours in the work days as*
18 *stated in the job offer and shall exclude the*
19 *worker’s Sabbath and Federal holidays. If*
20 *the employer affords the contract agricul-*
21 *tural worker less employment than the*
22 *number of hours required under this sub-*
23 *paragraph, the employer shall pay such*
24 *worker the amount the worker would have*

1 *earned had the worker worked the guaran-*
2 *teed number of hours.*

3 “(ii) *FAILURE TO WORK.*—*Any hours*
4 *which the worker fails to work, up to a*
5 *maximum of the number of hours specified*
6 *in the job offer for a work day, when the*
7 *worker has been offered an opportunity to*
8 *do so, and all hours of work actually per-*
9 *formed (including voluntary work in excess*
10 *of the number of hours specified in the job*
11 *offer in a work day, on the worker’s Sab-*
12 *bath, or on Federal holidays) may be count-*
13 *ed by the employer in calculating whether*
14 *the period of guaranteed employment has*
15 *been met.*

16 “(iii) *CONTRACT IMPOSSIBILITY.*—*If,*
17 *before the expiration of the period of em-*
18 *ployment specified in the job offer, the serv-*
19 *ices of a contract agricultural worker are no*
20 *longer required for reasons beyond the con-*
21 *trol of the employer due to any form of nat-*
22 *ural disaster, including a flood, hurricane,*
23 *freeze, earthquake, fire, drought, plant or*
24 *animal disease or pest infestation, or regu-*

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1 *latory drought, before the guarantee in*
2 *clause (i) is fulfilled, the employer—*

3 *“(I) may terminate the worker’s*
4 *employment;*

5 *“(II) shall fulfill the employment*
6 *guarantee described in clause (i) for*
7 *the work days that have elapsed from*
8 *the first work day after the arrival of*
9 *the worker to the termination of em-*
10 *ployment;*

11 *“(III) shall make efforts to trans-*
12 *fer the worker to other comparable em-*
13 *ployment acceptable to the worker; and*

14 *“(IV) if such a transfer does not*
15 *take place, shall provide the return*
16 *transportation required under sub-*
17 *paragraph (J).*

18 *“(C) WORKERS’ COMPENSATION.—*

19 *“(i) REQUIREMENT TO PROVIDE.—If a*
20 *job referred to in paragraph (3) is not cov-*
21 *ered by the State workers’ compensation*
22 *law, the employer shall provide, at no cost*
23 *to the nonimmigrant agricultural worker,*
24 *insurance covering injury and disease aris-*
25 *ing out of, and in the course of, such job.*

1 “(i) *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 (f).*

14 “(F) *DEDUCTION OF WAGES.*—*The employer*
15 *shall make only deductions from a non-*
16 *immigrant agricultural worker’s wages that are*
17 *authorized by law and are reasonable and cus-*
18 *tomary in the occupation and area of employ-*
19 *ment of such worker.*

20 “(G) *REQUIREMENT TO PROVIDE HOUSING*
21 *OR A HOUSING ALLOWANCE.*—

22 “(i) *IN GENERAL.*—*Except as provided*
23 *in clauses (iv) and (v), a designated agri-*
24 *cultural employer shall offer to provide a*
25 *nonimmigrant agricultural worker with*

1 *housing at no cost in accordance with*
2 *clause (ii) or (iii).*

3 “(ii) *HOUSING.—An employer may*
4 *provide housing to a nonimmigrant agricul-*
5 *tural worker that meets—*

6 “(I) *applicable Federal standards*
7 *for temporary labor camps; or*

8 “(II) *applicable local standards*
9 *(or, in the absence of applicable local*
10 *standards, State standards) for rental*
11 *or public accommodation housing or*
12 *other substantially similar class of*
13 *habitation.*

14 “(iii) *HOUSING PAYMENTS.—*

15 “(I) *PUBLIC HOUSING.—If the*
16 *employer arranges public housing for*
17 *nonimmigrant agricultural workers*
18 *through a State, county, or local gov-*
19 *ernment program and such public*
20 *housing units normally require pay-*
21 *ments from tenants, such payments*
22 *shall be made by the employer directly*
23 *to the landlord.*

24 “(II) *DEPOSITS.—Deposits for*
25 *bedding or other similar incidentals re-*

1 *lated to housing shall not be collected*
2 *from workers by employers who pro-*
3 *vide housing for such workers.*

4 *“(III) DAMAGES.—The employer*
5 *may require any worker who is respon-*
6 *sible for damage to housing that did*
7 *not result from normal wear and tear*
8 *related to habitation to reimburse the*
9 *employer for the reasonable cost of re-*
10 *pairing such damage.*

11 *“(iv) HOUSING ALLOWANCE ALTER-*
12 *NATIVE.—*

13 *“(I) IN GENERAL.—The employer*
14 *may provide a reasonable housing al-*
15 *lowance instead of providing housing*
16 *under clause (i). Upon the request of a*
17 *worker seeking assistance in locating*
18 *housing, the employer shall make a*
19 *good faith effort to assist the worker in*
20 *identifying and locating housing in the*
21 *area of intended employment. An em-*
22 *ployer who offers a housing allowance*
23 *to a worker or assists a worker in lo-*
24 *catating housing, which the worker occu-*
25 *pies, shall not be deemed a housing*

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1 *provider under section 203 of the Mi-*
2 *grant and Seasonal Agricultural Work-*
3 *er Protection Act (29 U.S.C. 1823)*
4 *solely by virtue of providing such hous-*
5 *ing allowance. No housing allowance*
6 *may be used for housing that is owned*
7 *or controlled by the employer.*

8 *“(II) CERTIFICATION REQUIRE-*
9 *MENT.—Contract agricultural workers*
10 *may only be provided a housing allow-*
11 *ance if the Governor of the State in*
12 *which the place of employment is lo-*
13 *cated certifies to the Secretary that*
14 *there is adequate housing available in*
15 *the area of intended employment for*
16 *migrant farm workers and contract ag-*
17 *ricultural workers who are seeking*
18 *temporary housing while employed in*
19 *agricultural work. Such certification*
20 *shall expire after 3 years unless re-*
21 *newed by the Governor of the State.*

22 *“(III) AMOUNT OF ALLOWANCE.—*

23 *“(aa) NONMETROPOLITAN*
24 *COUNTIES.—If the place of em-*
25 *ployment of the workers provided*

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1 *in the State in which the place of*
2 *employment is located, as estab-*
3 *lished by the Secretary of Housing*
4 *and Urban Development pursuant*
5 *to section 8(c) of the United*
6 *States Housing Act of 1937 (42*
7 *U.S.C. 1437f(c)), based on a 2-*
8 *bedroom dwelling unit and an as-*
9 *sumption of 2 persons per bed-*
10 *room.*

11 “(v) *EXCEPTION FOR COMMUTING*
12 *WORKERS.—Nothing in this subparagraph*
13 *may be construed to require an employer to*
14 *provide housing or a housing allowance to*
15 *workers who reside outside of the United*
16 *States if their place of residence is within*
17 *normal commuting distance and the job site*
18 *is within 50 miles of an international land*
19 *border of the United States.*

20 “(H) *WORKSITE TRANSPORTATION FOR*
21 *CONTRACT WORKERS.—During the period a des-*
22 *ignated agricultural employer employs a con-*
23 *tract agricultural worker, such employer shall, at*
24 *the employer’s option, provide or reimburse the*
25 *contract agricultural worker for the cost of daily*

1 *transportation from the contract worker's living*
2 *quarters to the contract agricultural worker's*
3 *place of employment.*

4 “(I) *REIMBURSEMENT OF TRANSPORTATION*
5 *TO THE PLACE OF EMPLOYMENT.—*

6 “(i) *IN GENERAL.—A nonimmigrant*
7 *agricultural worker shall be reimbursed by*
8 *the first employer for the cost of the worker's*
9 *transportation and subsistence from the*
10 *place from which the worker came from to*
11 *the place of first employment.*

12 “(ii) *LIMITATION.—The amount of re-*
13 *imbursement provided under clause (i) to a*
14 *worker shall not exceed the lesser of—*

15 “(I) *the actual cost to the worker*
16 *of the transportation and subsistence*
17 *involved; or*

18 “(II) *the most economical and*
19 *reasonable common carrier transpor-*
20 *tation charges and subsistence costs for*
21 *the distance involved.*

22 “(J) *REIMBURSEMENT OF TRANSPORTATION*
23 *FROM PLACE OF EMPLOYMENT.—*

24 “(i) *IN GENERAL.—A contract agricul-*
25 *tural worker who completes at least 27*

1 *months under his or her contract with the*
2 *same designated agricultural employer shall*
3 *be reimbursed by that employer for the cost*
4 *of the worker's transportation and subsist-*
5 *ence from the place of employment to the*
6 *place from which the worker came from*
7 *abroad to work for the employer.*

8 “(ii) *LIMITATION.—The amount of re-*
9 *imbursement required under clause (i) shall*
10 *not exceed the lesser of—*

11 “(I) *the actual cost to the worker*
12 *of the transportation and subsistence*
13 *involved; or*

14 “(II) *the most economical and*
15 *reasonable common carrier transpor-*
16 *tation charges and subsistence costs for*
17 *the distance involved.*

18 “(f) *WAGES.—*

19 “(1) *WAGE RATE REQUIREMENT.—*

20 “(A) *IN GENERAL.—A nonimmigrant agri-*
21 *cultural worker employed by a designated agri-*
22 *cultural employer shall be paid not less than the*
23 *wage rate for such employment set forth in para-*
24 *graph (3).*

1 “(B) *WORKERS PAID ON A PIECE RATE OR*
2 *OTHER INCENTIVE BASIS.—If an employer pays*
3 *by the piece rate or other incentive method and*
4 *requires 1 or more minimum productivity stand-*
5 *ards as a condition of job retention, such stand-*
6 *ards shall be specified in the job offer and be no*
7 *more than those which have been normally re-*
8 *quired (at the time of the employee’s first appli-*
9 *cation for designated employer status) by other*
10 *employers for the activity in the geographic area*
11 *of the job, unless the Secretary approves a higher*
12 *standard.*

13 “(2) *JOB CATEGORIES.—*

14 “(A) *IN GENERAL.—For purposes of para-*
15 *graph (1), each nonimmigrant agricultural*
16 *worker employed by such employer shall be as-*
17 *signed to 1 of the following standard occupa-*
18 *tional classifications, as defined by the Bureau*
19 *of Labor Statistics:*

20 “(i) *First-Line Supervisors of Farm-*
21 *ing, Fishing, and Forestry Workers (45-*
22 *1011).*

23 “(ii) *Animal Breeders (45-2021).*

24 “(iii) *Graders and Sorters, Agricul-*
25 *tural Products (45-2041).*

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1 “(iv) *Agricultural equipment operator*
2 *(45–2091).*

3 “(v) *Farmworkers and Laborers, Crop,*
4 *Nursery, and Greenhouse (45–2092).*

5 “(vi) *Farmworkers, Farm, Ranch and*
6 *Aquacultural Animals (45–2093).*

7 “(B) *DETERMINATION OF CLASSIFICA-*
8 *TION.—A nonimmigrant agricultural worker is*
9 *employed in a standard occupational classifica-*
10 *tion described in clause (i), (ii), (iii), (iv), (v),*
11 *or (vi) of subparagraph (A) if the worker per-*
12 *forms activities associated with that occupa-*
13 *tional classification, as specified on the employ-*
14 *er’s petition, for at least 75 percent of the time*
15 *in a semiannual employment period.*

16 “(3) *DETERMINATION OF WAGE RATE.—*

17 “(A) *CALENDAR YEARS 2014 THROUGH*
18 *2016.—The wage rate under this subparagraph*
19 *for calendar years 2014 through 2016 shall be*
20 *the higher of—*

21 “(i) *the applicable Federal, State, or*
22 *local minimum wage; or*

23 “(ii)(I) *for the category described in*
24 *paragraph (2)(A)(iii)—*

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1 “(aa) \$9.37 for calendar year
2 2014;

3 “(bb) \$9.60 for calendar year
4 2015; and

5 “(cc) \$9.84 for calendar year
6 2016;

7 “(II) for the category described in
8 paragraph (2)(A)(iv)—

9 “(aa) \$11.30 for calendar year
10 2014;

11 “(bb) \$11.58 for calendar year
12 2015; and

13 “(cc) \$11.87 for calendar year
14 2016;

15 “(III) for the category described in
16 paragraph (2)(A)(v)—

17 “(aa) \$9.17 for calendar year
18 2014;

19 “(bb) \$9.40 for calendar year
20 2015; and

21 “(cc) \$9.64 for calendar year
22 2016; and

23 “(IV) for the category described in
24 paragraph (2)(A)(vi)—

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1 “(aa) \$10.82 for calendar year
2 2014;

3 “(bb) \$11.09 for calendar year
4 2015; and

5 “(cc) \$11.37 for calendar year
6 2016.

7 “(B) *SUBSEQUENT YEARS.*—*The Secretary*
8 *shall increase the hourly wage rates set forth in*
9 *clauses (i) through (iv) of subparagraph (A), for*
10 *each calendar year after the calendar years de-*
11 *scribed in subparagraph (A) by an amount equal*
12 *to—*

13 “(i) 1.5 percent, if the percentage in-
14 crease in the *Employment Cost Index* for
15 wages and salaries during the previous cal-
16 endar year, as calculated by the *Bureau of*
17 *Labor Statistics*, is less than 1.5 percent;

18 “(ii) the percentage increase in such
19 *Employment Cost Index*, if such percentage
20 increase is between 1.5 percent and 2.5 per-
21 cent, inclusive; or

22 “(iii) 2.5 percent, if such percentage
23 increase is greater than 2.5 percent.

24 “(C) *AGRICULTURAL SUPERVISORS AND*
25 *ANIMAL BREEDERS.*—*Not later than September*

1 *1, 2015, and annually thereafter, the Secretary,*
2 *in consultation with the Secretary of Labor,*
3 *shall establish the required wage for the next cal-*
4 *endar year for each of the job categories set out*
5 *in clauses (i) and (ii) of paragraph (2)(A).*

6 “(D) *SURVEY BY BUREAU OF LABOR STA-*
7 *TISTICS.—Not later than April 15, 2015, the Bu-*
8 *reau of Labor Statistics shall consult with the*
9 *Secretary to expand the Occupational Employ-*
10 *ment Statistics Survey to survey agricultural*
11 *producers and contractors and produce improved*
12 *wage data by State and the job categories set out*
13 *in clauses (i) through (vi) of subparagraph (A).*

14 “(4) *CONSIDERATION.—In determining the wage*
15 *rate under paragraph (3)(C), the Secretary may con-*
16 *sider appropriate factors, including—*

17 “(A) *whether the employment of additional*
18 *alien workers at the required wage will adversely*
19 *affect the wages and working conditions of work-*
20 *ers in the United States similarly employed;*

21 “(B) *whether the employment in the United*
22 *States of an alien admitted under section*
23 *101(a)(15)(H)(ii)(a) or unauthorized aliens in*
24 *the agricultural workforce has depressed wages of*
25 *United States workers engaged in agricultural*

1 *employment below the levels that would otherwise*
2 *have prevailed if such aliens had not been em-*
3 *ployed in the United States;*

4 “(C) *whether wages of agricultural workers*
5 *are sufficient to support such workers and their*
6 *families at a level above the poverty thresholds*
7 *determined by the Bureau of Census;*

8 “(D) *the wages paid workers in the United*
9 *States who are not employed in agricultural em-*
10 *ployment but who are employed in comparable*
11 *employment;*

12 “(E) *the continued exclusion of employers of*
13 *nonimmigrant alien workers in agriculture from*
14 *the payment of taxes under chapter 21 of the In-*
15 *ternal Revenue Code of 1986 (26 U.S.C. 3101 et*
16 *seq.) and chapter 23 of such Code (26 U.S.C.*
17 *3301 et seq.);*

18 “(F) *the impact of farm labor costs in the*
19 *United States on the movement of agricultural*
20 *production to foreign countries;*

21 “(G) *a comparison of the expenses and cost*
22 *structure of foreign agricultural producers to the*
23 *expenses incurred by agricultural producers*
24 *based in the United States; and*

1 “(H) the accuracy and reliability of the Oc-
2 cupational Employment Statistics Survey.

3 “(5) ADVERSE EFFECT WAGE RATE.—

4 “(A) PROHIBITION OF MODIFICATION.—The
5 adverse effect wage rates in effect on April 15,
6 2013, for nonimmigrants admitted under
7 101(a)(15)(H)(ii)(a)—

8 “(i) shall remain in effect until the
9 date described in section 2233 of the Agri-
10 cultural Worker Program Act of 2013; and

11 “(ii) may not be modified except as
12 provided in subparagraph (B).

13 “(B) EXCEPTION.—Until the Secretary es-
14 tablishes the wage rates required under para-
15 graph (3)(C), the adverse effect wage rates in ef-
16 fect on the date of the enactment of the Agricul-
17 tural Worker Program Act of 2013 shall be—

18 “(i) deemed to be such wage rates; and

19 “(ii) after September 1, 2015, adjusted
20 annually in accordance with paragraph
21 (3)(B).

22 “(C) NONPAYMENT OF FICA AND FUTA
23 TAXES.—An employer employing nonimmigrant
24 agricultural workers shall not be required to pay
25 and withhold from such workers—

1 “(i) the tax required under section
2 3101 of the Internal Revenue Code of 1986;

3 or

4 “(ii) the tax required under section
5 3301 of the Internal Revenue Code of 1986.

6 “(6) *PREFERENTIAL TREATMENT OF ALIENS*
7 *PROHIBITED.—*

8 “(A) *IN GENERAL.—*Except as provided in
9 subparagraph (B), employers seeking to hire
10 United States workers shall offer the United
11 States workers not less than the same benefits,
12 wages, and working conditions that the employer
13 is offering, intends to offer, or will provide to
14 nonimmigrant agricultural workers. No job offer
15 may impose on United States workers any re-
16 strictions or obligations that will not be imposed
17 on the employer’s nonimmigrant agricultural
18 workers.

19 “(B) *EXCEPTION.—*Notwithstanding sub-
20 paragraph (A), a designated agricultural em-
21 ployer is not required to provide housing or a
22 housing allowance to United States workers.

23 “(g) *WORKER PROTECTIONS AND DISPUTE RESOLU-*
24 *TION.—*

1 “(1) *EQUALITY OF TREATMENT.*—*Nonimmigrant*
2 *agricultural workers shall not be denied any right or*
3 *remedy under any Federal, State, or local labor or*
4 *employment law applicable to United States workers*
5 *engaged in agricultural employment.*

6 “(2) *APPLICABILITY OF THE MIGRANT AND SEA-*
7 *SONAL AGRICULTURAL WORKER PROTECTION ACT.*—

8 “(A) *MIGRANT AND SEASONAL AGRICUL-*
9 *TURAL WORKER PROTECTION ACT.*—*Non-*
10 *immigrant agricultural workers shall be consid-*
11 *ered migrant agricultural workers for purposes*
12 *of the Migrant and Seasonal Agricultural Work-*
13 *er Protection Act (29 U.S.C. 1801 et seq.).*

14 “(B) *ELIGIBILITY OF NONIMMIGRANT AGRI-*
15 *CULTURAL WORKERS FOR CERTAIN LEGAL AS-*
16 *SISTANCE.*—*A nonimmigrant agricultural work-*
17 *er shall be considered to be lawfully admitted for*
18 *permanent residence for purposes of establishing*
19 *eligibility for legal services under the Legal Serv-*
20 *ices Corporation Act (42 U.S.C. 2996 et seq.) on*
21 *matters relating to wages, housing, transpor-*
22 *tation, and other employment rights.*

23 “(C) *MEDIATION.*—

24 “(i) *FREE MEDIATION SERVICES.*—*The*
25 *Federal Mediation and Conciliation Service*

1 *shall be available to assist in resolving dis-*
2 *putes arising under this section between*
3 *nonimmigrant agricultural workers and*
4 *designated agricultural employers without*
5 *charge to the parties.*

6 “(ii) *COMPLAINT.*—*If a nonimmigrant*
7 *agricultural worker files a complaint under*
8 *section 504 of the Migrant and Seasonal*
9 *Agricultural Worker Protection Act (29*
10 *U.S.C. 1854), not later than 60 days after*
11 *the filing of proof of service of the com-*
12 *plaint, a party to the action may file a re-*
13 *quest with the Federal Mediation and Con-*
14 *ciliation Service to assist the parties in*
15 *reaching a satisfactory resolution of all*
16 *issues involving all parties to the dispute.*

17 “(iii) *NOTICE.*—*Upon filing a request*
18 *under clause (ii) and giving of notice to the*
19 *parties, the parties shall attempt mediation*
20 *within the period specified in clause (iv).*

21 “(iv) *90-DAY LIMIT.*—*The Federal Me-*
22 *diation and Conciliation Service may con-*
23 *duct mediation or other nonbinding dispute*
24 *resolution activities for a period not to ex-*
25 *ceed 90 days beginning on the date on*

1 *which the Federal Mediation and Concilia-*
2 *tion Service receives a request for assistance*
3 *under clause (ii) unless the parties agree to*
4 *an extension of such period.*

5 “(v) *AUTHORIZATION OF APPROPRIA-*
6 *TIONS.—*

7 “(I) *IN GENERAL.—Subject to*
8 *clause (II), there are authorized to be*
9 *appropriated to the Federal Mediation*
10 *and Conciliation Service \$500,000 for*
11 *each fiscal year to carry out this sub-*
12 *paragraph.*

13 “(II) *MEDIATION.—Notwith-*
14 *standing any other provision of law,*
15 *the Director of the Federal Mediation*
16 *and Conciliation Service is author-*
17 *ized—*

18 “(aa) *to conduct the medi-*
19 *ation or other dispute resolution*
20 *activities from any other account*
21 *containing amounts available to*
22 *the Director; and*

23 “(bb) *to reimburse such ac-*
24 *count with amounts appropriated*
25 *pursuant to subclause (I).*

1 “(vi) *PRIVATE MEDIATION.*—*If all par-*
2 *ties agree, a private mediator may be em-*
3 *ployed as an alternative to the Federal Me-*
4 *diation and Conciliation Service.*

5 “(3) *OTHER RIGHTS.*—*Nonimmigrant agricul-*
6 *tural workers shall be entitled to the rights granted to*
7 *other classes of aliens under sections 242(h) and*
8 *245E.*

9 “(4) *WAIVER OF RIGHTS.*—*Agreements by non-*
10 *immigrant agricultural workers to waive or modify*
11 *any rights or protections under this section shall be*
12 *considered void or contrary to public policy except as*
13 *provided in a collective bargaining agreement with a*
14 *bona fide labor organization.*

15 “(h) *ENFORCEMENT AUTHORITY.*—

16 “(1) *INVESTIGATION OF COMPLAINTS.*—

17 “(A) *AGGRIEVED PERSON OR THIRD-PARTY*
18 *COMPLAINTS.*—

19 “(i) *PROCESS.*—*The Secretary of*
20 *Labor shall establish a process for the re-*
21 *ceipt, investigation, and disposition of com-*
22 *plaints respecting a designated agricultural*
23 *employer’s failure to meet a condition speci-*
24 *fied in subsection (e), or an employer’s mis-*

1 *representation of material facts in a peti-*
2 *tion under subsection (e)(2).*

3 “(ii) *FILING.—Any aggrieved person*
4 *or organization, including bargaining rep-*
5 *resentatives, may file a complaint referred*
6 *to in clause (i) not later than 1 year after*
7 *the date of the failure or misrepresentation,*
8 *respectively.*

9 “(iii) *INVESTIGATION OR HEARING.—*
10 *The Secretary of Labor shall conduct an in-*
11 *vestigation if there is reasonable cause to be-*
12 *lieve that such failure or misrepresentation*
13 *has occurred.*

14 “(B) *DETERMINATION ON COMPLAINT.—*
15 *Under such process, the Secretary of Labor shall*
16 *provide, not later than 30 days after the date on*
17 *which such a complaint is filed, for a determina-*
18 *tion as to whether or not a reasonable basis ex-*
19 *ists to make a finding described in subparagraph*
20 *(C), (D), (E), or (F). If the Secretary of Labor*
21 *determines that such a reasonable basis exists,*
22 *the Secretary of Labor shall provide for notice of*
23 *such determination to the interested parties and*
24 *an opportunity for a hearing on the complaint,*
25 *in accordance with section 556 of title 5, United*

1 *States Code, within 60 days after the date of the*
2 *determination. If such a hearing is requested, the*
3 *Secretary of Labor shall make a finding con-*
4 *cerning the matter not later than 60 days after*
5 *the date of the hearing. In the case of similar*
6 *complaints respecting the same applicant, the*
7 *Secretary of Labor may consolidate the hearings*
8 *under this subparagraph on such complaints.*

9 “(C) *FAILURE TO MEET CONDITIONS.—If*
10 *the Secretary of Labor finds, after notice and op-*
11 *portunity for a hearing, a failure to meet a con-*
12 *dition under subsection (e) or (f), or a material*
13 *misrepresentation of fact in a petition under*
14 *subsection (e)(2)—*

15 “(i) *the Secretary of Labor shall notify*
16 *the Secretary of such finding and may, in*
17 *addition, impose such other administrative*
18 *remedies (including civil money penalties*
19 *in an amount not to exceed \$1,000 per vio-*
20 *lation) as the Secretary of Labor determines*
21 *to be appropriate; and*

22 “(ii) *the Secretary may disqualify the*
23 *designated agricultural employer from the*
24 *employment of nonimmigrant agricultural*
25 *workers for a period of 1 year.*

1 “(D) *WILLFUL FAILURES AND WILLFUL*
2 *MISREPRESENTATIONS.—If the Secretary of*
3 *Labor finds, after notice and opportunity for*
4 *hearing, a willful failure to meet a condition*
5 *under subsection (e) or (f) or a willful misrepre-*
6 *sentation of a material fact in an registration or*
7 *petition under paragraph (1) or (2) of subsection*
8 *(e)—*

9 “(i) *the Secretary of Labor shall notify*
10 *the Secretary of such finding and may, in*
11 *addition, impose such other administrative*
12 *remedies (including civil money penalties*
13 *in an amount not to exceed \$5,000 per vio-*
14 *lation) as the Secretary of Labor determines*
15 *to be appropriate;*

16 “(ii) *the Secretary of Labor may seek*
17 *appropriate legal or equitable relief; and*

18 “(iii) *the Secretary may disqualify the*
19 *designated agricultural employer from the*
20 *employment of nonimmigrant agricultural*
21 *workers for a period of 2 years.*

22 “(E) *DISPLACEMENT OF UNITED STATES*
23 *WORKERS.—If the Secretary of Labor finds, after*
24 *notice and opportunity for hearing, a willful*
25 *failure to meet a condition under subsection (e)*

1 or (f) or a willful misrepresentation of a mate-
2 rial fact in an registration or petition under
3 paragraph (1) or (2) of subsection (e), in the
4 course of which failure or misrepresentation the
5 employer displaced a United States worker em-
6 ployed by the employer during the period of em-
7 ployment on the employer's petition under sub-
8 section (e)(2) or during the period of 30 days
9 preceding such period of employment—

10 “(i) the Secretary of Labor shall notify
11 the Secretary of such finding and may, in
12 addition, impose such other administrative
13 remedies (including civil money penalties
14 in an amount not to exceed \$15,000 per vio-
15 lation) as the Secretary of Labor determines
16 to be appropriate; and

17 “(ii) the Secretary may disqualify the
18 employer from the employment of non-
19 immigrant agricultural workers for a pe-
20 riod of 3 years.

21 “(F) *FAILURES TO PAY WAGES OR RE-*
22 *QUIRED BENEFITS.—If the Secretary of Labor*
23 *finds, after notice and opportunity for a hearing,*
24 *that the employer has failed to pay the wages, or*
25 *provide the housing allowance, transportation,*

1 *subsistence reimbursement, or guarantee of em-*
2 *ployment required under subsections (e)(4) and*
3 *(f), the Secretary of Labor shall assess payment*
4 *of back wages, or other required benefits, due any*
5 *United States worker or nonimmigrant agricul-*
6 *tural worker employed by the employer in the*
7 *specific employment in question. The back wages*
8 *or other required benefits required under sub-*
9 *sections (e) and (f) shall be equal to the dif-*
10 *ference between the amount that should have been*
11 *paid and the amount that actually was paid to*
12 *such worker.*

13 “(G) *DISPOSITION OF PENALTIES.—Civil*
14 *penalties collected under this paragraph shall be*
15 *deposited into the Comprehensive Immigration*
16 *Reform Trust Fund established under section*
17 *6(a)(1) of the Border Security, Economic Oppor-*
18 *tunity, and Immigration Modernization Act.*

19 “(2) *LIMITATIONS ON CIVIL MONEY PEN-*
20 *ALTIES.—The Secretary of Labor shall not impose*
21 *total civil money penalties with respect to a petition*
22 *under subsection (e)(2) in excess of \$90,000.*

23 “(3) *ELECTION.—A nonimmigrant agricultural*
24 *worker who has filed an administrative complaint*
25 *with the Secretary of Labor may not maintain a civil*

1 *action unless a complaint based on the same violation*
2 *filed with the Secretary of Labor under paragraph (1)*
3 *is withdrawn before the filing of such action, in which*
4 *case the rights and remedies available under this sub-*
5 *section shall be exclusive.*

6 *“(4) PRECLUSIVE EFFECT.—Any settlement by a*
7 *nonimmigrant agricultural worker, a designated agri-*
8 *cultural employer, or any person reached through the*
9 *mediation process required under subsection (g)(2)(C)*
10 *shall preclude any right of action arising out of the*
11 *same facts between the parties in any Federal or*
12 *State court or administrative proceeding, unless spe-*
13 *cifically provided otherwise in the settlement agree-*
14 *ment.*

15 *“(5) SETTLEMENTS.—Any settlement by the Sec-*
16 *retary of Labor with a designated agricultural worker*
17 *on behalf of a nonimmigrant agricultural worker of*
18 *a complaint filed with the Secretary of Labor under*
19 *this section or any finding by the Secretary of Labor*
20 *under this subsection shall preclude any right of ac-*
21 *tion arising out of the same facts between the parties*
22 *under any Federal or State court or administrative*
23 *proceeding, unless specifically provided otherwise in*
24 *the settlement agreement.*

1 “(6) *STATUTORY CONSTRUCTION.*—*Nothing in*
2 *this subsection may be construed as limiting the au-*
3 *thority of the Secretary of Labor to conduct any com-*
4 *pliance investigation under any other labor law, in-*
5 *cluding any law affecting migrant and seasonal agri-*
6 *cultural workers, or, in the absence of a complaint*
7 *under this section.*

8 “(7) *DISCRIMINATION PROHIBITED.*—*It is a vio-*
9 *lation of this subsection for any person who has filed*
10 *a petition under subsection (e) or (f) to intimidate,*
11 *threaten, restrain, coerce, blacklist, discharge, or in*
12 *any other manner discriminate against an employee,*
13 *including a former employee or an applicant for em-*
14 *ployment, because the employee—*

15 “(A) *has disclosed information to the em-*
16 *ployer, or to any other person, that the employee*
17 *reasonably believes evidences a violation of sub-*
18 *section (e) or (f), or any rule or regulation relat-*
19 *ing to subsection (e) or (f); or*

20 “(B) *cooperates or seeks to cooperate in an*
21 *investigation or other proceeding concerning the*
22 *employer’s compliance with the requirements*
23 *under subsection (e) or (f) or any rule or regula-*
24 *tion pertaining to subsection (e) or (f).*

25 “(8) *ROLE OF ASSOCIATIONS.*—

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1 “(A) *VIOLATION BY A MEMBER OF AN ASSO-*
2 *CIATION.—*

3 “(i) *IN GENERAL.—If an association*
4 *acting as the agent of an employer files an*
5 *application on behalf of such employer, the*
6 *employer is fully responsible for such appli-*
7 *cation, and for complying with the terms*
8 *and conditions of subsection (e). If such an*
9 *employer is determined to have violated any*
10 *requirement described in this subsection, the*
11 *penalty for such violation shall apply only*
12 *to that employer except as provided in*
13 *clause (ii).*

14 “(ii) *COLLECTIVE RESPONSIBILITY.—If*
15 *the Secretary of Labor determines that the*
16 *association or other members of the associa-*
17 *tion participated in, had knowledge of, or*
18 *reason to know of a violation described in*
19 *clause (i), the penalty shall also be invoked*
20 *against the association and complicit asso-*
21 *ciation members.*

22 “(B) *VIOLATIONS BY AN ASSOCIATION ACT-*
23 *ING AS AN EMPLOYER.—*

24 “(i) *IN GENERAL.—If an association*
25 *filing an application as a sole or joint em-*

1 *ployer is determined to have violated any*
2 *requirement described in this section, the*
3 *penalty for such violation shall apply only*
4 *to the association except as provided in*
5 *clause (i).*

6 “(ii) *MEMBER RESPONSIBILITY.—If*
7 *the Secretary of Labor determines that 1 or*
8 *more association members participated in,*
9 *had knowledge of, or reason to know of the*
10 *violation described in clause (i), the penalty*
11 *shall be invoked against all complicit asso-*
12 *ciation members.*

13 “(i) *SPECIAL NONIMMIGRANT VISA PROCESSING AND*
14 *WAGE DETERMINATION PROCEDURES FOR CERTAIN AGRICULTURAL*
15 *OCCUPATIONS.—*

16 “(1) *FINDING.—Certain industries possess*
17 *unique occupational characteristics that necessitate*
18 *the Secretary of Agriculture to adopt special proce-*
19 *dures relating to housing, pay, and visa program ap-*
20 *plication requirements for those industries.*

21 “(2) *SPECIAL PROCEDURES INDUSTRY DE-*
22 *FINED.—In this subsection, the term ‘Special Proce-*
23 *dures Industry’ means—*

24 “(A) *shepherding and goat herding;*

1 “(B) *itinerant commercial beekeeping and*
2 *pollination;*

3 “(C) *open range production of livestock;*

4 “(D) *itinerant animal shearing; and*

5 “(E) *custom combining industries.*

6 “(3) *WORK LOCATIONS.—The Secretary shall*
7 *allow designated agricultural employers in a Special*
8 *Procedures Industry that do not operate in a single*
9 *fixed-site location to provide, as part of its registra-*
10 *tion or petition under the Program, a list of antici-*
11 *ipated work locations, which—*

12 “(A) *may include an anticipated itinerary;*
13 *and*

14 “(B) *may be subsequently amended by the*
15 *employer, after notice to the Secretary.*

16 “(4) *WAGE RATES.—The Secretary may establish*
17 *monthly, weekly, or biweekly wage rates for occupa-*
18 *tions in a Special Procedures Industry for a State or*
19 *other geographic area. For an employer in those Spe-*
20 *cial Procedures Industries that typically pay a*
21 *monthly wage, the Secretary shall require that work-*
22 *ers will be paid not less frequently than monthly and*
23 *at a rate no less than the legally required monthly*
24 *cash wage for such employer as of the date of the en-*
25 *actment of the Border Security, Economic Oppor-*

1 *tunity, and Immigration Modernization Act and in*
2 *an amount as re-determined annually by the Sec-*
3 *retary of Agriculture through rulemaking.*

4 “(5) *HOUSING.*—*The Secretary shall allow for*
5 *the provision of housing or a housing allowance by*
6 *employers in Special Procedures Industries and allow*
7 *housing suitable for workers employed in remote loca-*
8 *tions.*

9 “(6) *ALLERGY LIMITATION.*—*An employer en-*
10 *gaged in the commercial beekeeping or pollination*
11 *services industry may require that an applicant be*
12 *free from bee pollen, venom, or other bee-related aller-*
13 *gies.*

14 “(7) *APPLICATION.*—*An individual employer in*
15 *a Special Procedures Industry may file a program*
16 *petition on its own behalf or in conjunction with an*
17 *association of employers. The employer’s petition may*
18 *be part of several related petitions submitted simulta-*
19 *neously that constitute a master petition.*

20 “(8) *RULEMAKING.*—*The Secretary or, as appro-*
21 *priate, the Secretary of Homeland Security or the*
22 *Secretary of Labor, after consultation with employers*
23 *and employee representatives, shall publish for notice*
24 *and comment proposed regulations relating to hous-*

1 *ing, pay, and application procedures for Special Pro-*
2 *cedures Industries.*

3 “(j) *MISCELLANEOUS PROVISIONS.—*

4 “(1) *DISQUALIFICATION OF NONIMMIGRANT AGRIC-*
5 *CULTURAL WORKERS FROM FINANCIAL ASSISTANCE.—*

6 *An alien admitted as a nonimmigrant agricultural*
7 *worker is not eligible for any program of financial as-*
8 *sistance under Federal law (whether through grant,*
9 *loan, guarantee, or otherwise) on the basis of finan-*
10 *cial need, as such programs are identified by the Sec-*
11 *retary in consultation with other agencies of the*
12 *United States.*

13 “(2) *MONITORING REQUIREMENT.—*

14 “(A) *IN GENERAL.—The Secretary shall*
15 *monitor the movement of nonimmigrant agricul-*
16 *tural workers through—*

17 “(i) *the Employment Verification Sys-*
18 *tem described in section 274A(b); and*

19 “(ii) *the electronic monitoring system*
20 *established pursuant to subparagraph (B).*

21 “(B) *ELECTRONIC MONITORING SYSTEM.—*

22 *Not later than 2 years after the effective date of*
23 *this section, the Secretary of Homeland Security,*
24 *through the Director of U.S. Citizenship and Im-*

1 *migration Services, shall establish an electronic*
2 *monitoring system, which shall—*

3 *“(i) be modeled on the Student and*
4 *Exchange Visitor Information System*
5 *(SEVIS) and the SEVIS II tracking system*
6 *administered by U.S. Immigration and*
7 *Customs Enforcement;*

8 *“(ii) monitor the presence and employ-*
9 *ment of nonimmigrant agricultural work-*
10 *ers; and*

11 *“(iii) assist in ensuring the compliance*
12 *of designated agricultural employers and*
13 *nonimmigrant agricultural workers with*
14 *the requirements of the Program.”.*

15 ***(b) RULEMAKING.—****The Secretary of Agriculture shall*
16 *issue regulations to carry out section 218A of the Immigra-*
17 *tion and Nationality Act, as added by subsection (a), not*
18 *later than 1 year after the date of the enactment of this*
19 *Act.*

20 ***(c) CLERICAL AMENDMENT.—****The table of contents is*
21 *amended by inserting after the item relating to section 218*
22 *the following:*

“Sec. 218A. Nonimmigrant agricultural worker program.”.

23 ***(d) EFFECTIVE DATE.—****The amendments made by this*
24 *section shall take effect on October 1, 2014.*

1 **SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM.**

2 (a) *SUNSET OF PROGRAM.*—

3 (1) *IN GENERAL.*—*Except as provided in para-*
4 *graph (2), an employer may not petition to employ*
5 *an alien pursuant to section 101(a)(15)(H)(i)(a) of*
6 *the Immigration and Nationality Act (8 U.S.C.*
7 *1101(a)(15)(H)(i)(a)) after the date that is 1 year*
8 *after the date on which the regulations issued pursu-*
9 *ant to section 2241(b) become effective.*

10 (2) *EXCEPTION.*—*An employer may employ an*
11 *alien described in paragraph (1) for the shorter of—*

12 (A) *10 months; or*

13 (B) *the time specified in the position.*

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *REPEAL OF H-2A NONIMMIGRANT CAT-*
16 *EGORY.*—*Section 101(a)(15)(H)(i) (8 U.S.C.*
17 *1101(a)(15)(H)(i)) is amended by striking subclause*
18 *(a).*

19 (2) *REPEAL OF ADMISSION REQUIREMENTS FOR*
20 *H-2A WORKER.*—*Section 218 (8 U.S.C. 1188) is re-*
21 *pealed.*

22 (3) *CONFORMING AMENDMENTS.*—

23 (A) *AMENDMENT OF PETITION REQUIRE-*
24 *MENTS.*—*Section 214(c)(1) (8 U.S.C. 1184(c)(1))*
25 *is amended by striking “For purposes of this*
26 *subsection” and all that follows.*

1 (B) *CLERICAL AMENDMENT.*—*The table of*
2 *contents is amended by striking the item relating*
3 *to section 218.*

4 (4) *EFFECTIVE DATE.*—*The amendments made*
5 *by this subsection shall take effect on the date that is*
6 *1 year after the effective date of the regulations issued*
7 *pursuant to section 2241(b).*

8 **SEC. 2234. REPORTS TO CONGRESS ON NONIMMIGRANT AG-**
9 **RICULTURAL WORKERS.**

10 (a) *ANNUAL REPORT BY SECRETARY OF AGRICULTURE.*—*Not later than September 30 of each year, the*
11 *Secretary of Agriculture shall submit a report to Congress*
12 *that identifies, for the previous year, the number,*
13 *disaggregated by State and by occupation, of—*

15 (1) *job opportunities approved for employment of*
16 *aliens admitted pursuant to clause (iii) or clause (iv)*
17 *of section 101(a)(15)(W) of the Immigration and Na-*
18 *tionality Act, as added by section 2231; and*

19 (2) *aliens actually admitted pursuant to each*
20 *such clause.*

21 (b) *ANNUAL REPORT BY SECRETARY OF HOMELAND*
22 *SECURITY.*—*Not later than September 30 of each year, the*
23 *Secretary shall submit a report to Congress that identifies,*
24 *for the previous year, the number of aliens described in sub-*
25 *section (a)(2) who—*

1 (1) *violated the terms of the nonimmigrant agri-*
2 *cultural worker program established under section*
3 *218A(b) of the Immigration and Nationality Act, as*
4 *added by section 2232; and*

5 (2) *have not departed from the United States.*

6 **CHAPTER 3—OTHER PROVISIONS**

7 **SEC. 2241. RULEMAKING.**

8 (a) *CONSULTATION REQUIREMENT.—In the course of*
9 *promulgating any regulation necessary to implement this*
10 *subtitle, or the amendments made by this subtitle, the Sec-*
11 *retary, the Secretary of Agriculture, the Secretary of Labor,*
12 *and the Secretary of State shall regularly consult with each*
13 *other.*

14 (b) *DEADLINE FOR ISSUANCE OF REGULATIONS.—Ex-*
15 *cept as provided in section 2232(b), all regulations to im-*
16 *plement this subtitle and the amendments made by this sub-*
17 *title shall be issued not later than 6 months after the date*
18 *of the enactment of this Act.*

19 **SEC. 2242. REPORTS TO CONGRESS.**

20 *Not later than 180 days after the date of the enactment*
21 *of this Act, the Secretary and the Secretary of Agriculture*
22 *shall jointly submit a report to Congress that describes the*
23 *measures being taken and the progress made in imple-*
24 *menting this subtitle and the amendments made by this*
25 *subtitle.*

1 **SEC. 2243. BENEFITS INTEGRITY PROGRAMS.**

2 (a) *IN GENERAL.*—Without regard to whether personal
3 interviews are conducted in the adjudication of benefits pro-
4 vided for by section 210A, 218A, 245B, 245C, 245D, 245E,
5 or 245F of the Immigration and Nationality Act, or in seek-
6 ing a benefit under section 101(a)(15)(U) of the Immigra-
7 tion and Nationality Act, section 1242 of the Refugee Crisis
8 in Iraq Act of 2007 (8 U.S.C. 1157 note), section 602(b)
9 of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101
10 note), or section 2211 of this Act, the Secretary shall uphold
11 and maintain the integrity of those benefits by carrying
12 out for each of them, within the Fraud Detection and Na-
13 tional Security Directorate of U.S. Citizenship and Immi-
14 gration Services, programs as follows:

15 (1) *A benefit fraud assessment program to quan-*
16 *tify fraud rates, detect ongoing fraud trends, and de-*
17 *velop appropriate countermeasures, including through*
18 *a random sample of both pending and completed*
19 *cases.*

20 (2) *A compliance review program, including site*
21 *visits, to identify frauds and deter fraudulent and il-*
22 *legal activities.*

23 (b) *REPORTS.*—

24 (1) *IN GENERAL.*—Not later than 90 days after
25 the date of the enactment of this Act, U.S. Citizenship
26 and Immigration Services shall annually submit to

1 *Congress a report on the programs carried out pursu-*
2 *ant to subsection (a).*

3 (2) *ELEMENTS IN FIRST REPORT.—The initial*
4 *report submitted under paragraph (1) shall include*
5 *the methodologies to be used by the Fraud Detection*
6 *and National Security Directorate for each of the pro-*
7 *grams specified in paragraphs (1) and (2) of sub-*
8 *section (a).*

9 (3) *ELEMENTS IN SUBSEQUENT REPORTS.—Each*
10 *subsequent report under paragraph (1) shall include,*
11 *for the calendar year covered by such report, a de-*
12 *scriptions of examples of fraud detected, fraud rates*
13 *for programs and types of applicants, and a descrip-*
14 *tion of the disposition of the cases in which fraud was*
15 *detected or suspected.*

16 (c) *USE OF FINDINGS OF FRAUD.—Any instance of*
17 *fraud or abuse detected pursuant to a program carried out*
18 *pursuant to subsection (a) may be used to deny or revoke*
19 *benefits, and may also be referred to U.S. Immigration and*
20 *Customs Enforcement for investigation of criminal viola-*
21 *tions of section 266 of the Immigration and Nationality*
22 *Act (8 U.S.C. 1306).*

23 (d) *FUNDING.—There are authorized to be appro-*
24 *priated, from the Comprehensive Immigration Reform*

1 *Trust Fund established under section 6(a)(1), such sums as*
2 *may be necessary to carry out this section.*

3 **SEC. 2244. EFFECTIVE DATE.**

4 *This subtitle and the amendments made by this sub-*
5 *title, except for sections 2231, 2232, and 2233, shall take*
6 *effect on the date on which the regulations required under*
7 *section 2241 are issued, regardless of whether such regula-*
8 *tions are issued on an interim basis or on any other basis.*

9 **Subtitle C—Future Immigration**

10 **SEC. 2301. MERIT-BASED POINTS TRACK ONE.**

11 *(a) IN GENERAL.—*

12 *(1) WORLDWIDE LEVEL OF MERIT-BASED IMMI-*
13 *GRANTS.—Section 201(e) (8 U.S.C. 1151(e)) is*
14 *amended to read as follows:*

15 *“(e) WORLDWIDE LEVEL OF MERIT-BASED IMMI-*
16 *GRANTS.—*

17 *“(1) IN GENERAL.—*

18 *“(A) NUMERICAL LIMITATION.—Subject to*
19 *paragraphs (2), (3), and (4), the worldwide level*
20 *of merit-based immigrants is equal to 120,000*
21 *for each fiscal year.*

22 *“(B) STATUS.—An alien admitted on the*
23 *basis of a merit-based immigrant visa under this*
24 *section shall have the status of an alien lawfully*
25 *admitted for permanent residence.*

1 “(2) *ANNUAL INCREASE.*—

2 “(A) *IN GENERAL.*—*Subject to subpara-*
3 *graph (B) and paragraph (3), if in any fiscal*
4 *year the worldwide level of visas available for*
5 *merit-based immigrants under this section—*

6 “(i) *is less than 75 percent of the num-*
7 *ber of applicants for such fiscal year, the*
8 *worldwide level shall increase by 5 percent*
9 *for the next fiscal year; and*

10 “(ii) *is equal to or more than 75 per-*
11 *cent of such number, the worldwide level for*
12 *the next fiscal year shall be the same as the*
13 *worldwide level for such fiscal year, minus*
14 *any amount added to the worldwide level*
15 *for such fiscal year under paragraph (4).*

16 “(B) *LIMITATION ON INCREASE.*—*The*
17 *worldwide level of visas available for merit-based*
18 *immigrants shall not exceed 250,000.*

19 “(3) *EMPLOYMENT CONSIDERATION.*—*The world-*
20 *wide level of visas available for merit-based immi-*
21 *grants may not be increased for a fiscal year under*
22 *paragraph (2) if the annual average unemployment*
23 *rate for the civilian labor force 18 years or over in*
24 *the United States, as determined by the Bureau of*

1 *Labor Statistics, for such previous fiscal year is more*
2 *than 8½ percent.*

3 “(4) *RECAPTURE OF UNUSED VISAS.*—*The world-*
4 *wide level of merit-based immigrants described in*
5 *paragraph (1) for a fiscal year shall be increased by*
6 *the difference (if any) between the worldwide level es-*
7 *tablished under paragraph (1) for the previous fiscal*
8 *year and the number of visas actually issued under*
9 *this subsection during that fiscal year. Such visas*
10 *shall be allocated for the following year pursuant to*
11 *section 203(c)(3).”.*

12 “(2) *MERIT-BASED IMMIGRANTS.*—*Section 203 (8*
13 *U.S.C. 1153) is amended by inserting after subsection*
14 *(b) the following:*

15 “(c) *MERIT-BASED IMMIGRANTS.*—

16 “(1) *FISCAL YEARS 1 THROUGH 4.*—*For the first*
17 *4 fiscal years beginning after the date of enactment*
18 *of the Border Security, Economic Opportunity, and*
19 *Immigration Modernization Act, the worldwide level*
20 *of merit-based immigrant visas made available under*
21 *section 201(e)(1) shall be available for aliens de-*
22 *scribed in section 203(b)(3) and in addition to any*
23 *visas available for such aliens under such section.*

24 “(2) *SUBSEQUENT FISCAL YEARS.*—*Beginning*
25 *with the fifth fiscal year beginning after the date of*

1 *the enactment of the Border Security, Economic Op-*
2 *portunity, and Immigration Modernization Act,*
3 *aliens subject to the worldwide level specified in sec-*
4 *tion 201(e) for merit-based immigrants shall be allo-*
5 *cated as follows:*

6 *“(A) 50 percent shall be available to appli-*
7 *cants with the highest number of points allocated*
8 *under tier 1 in paragraph (4).*

9 *“(B) 50 percent shall be available to appli-*
10 *cants with the highest number of points allocated*
11 *under tier 2 in paragraph (5).*

12 *“(3) UNUSED VISAS.—If the total number of*
13 *visas allocated to tier 1 or tier 2 for a fiscal year are*
14 *not granted during that fiscal year, such number may*
15 *be added to the number of visas available under sec-*
16 *tion 201(e)(1) for the following fiscal year and allo-*
17 *cated as follows:*

18 *“(A) If the unused visas were allocated for*
19 *tier 1 in a fiscal year, $\frac{2}{3}$ of such visas shall be*
20 *available for aliens allocated visas under tier 1*
21 *in the following fiscal year and $\frac{1}{3}$ of such visas*
22 *shall be available for aliens allocated visas under*
23 *either tier 1 or tier 2 in the following fiscal year.*

24 *“(B) If the unused visas were allocated for*
25 *tier 2 in a fiscal year, $\frac{2}{3}$ of such visas shall be*

1 *available for aliens allocated visas under tier 2*
2 *in the following fiscal year and $\frac{1}{3}$ of such visas*
3 *shall be available for aliens allocated visas under*
4 *either tier 1 or tier 2 in the following fiscal year.*

5 “(4) *TIER 1.—The Secretary shall allocate points*
6 *to each alien seeking to be a tier 1 merit-based immi-*
7 *grant as follows:*

8 “(A) *EDUCATION.—*

9 “(i) *IN GENERAL.—An alien may re-*
10 *ceive points under only 1 of the following*
11 *categories:*

12 “(I) *An alien who has received a*
13 *doctorate degree from an institution of*
14 *higher education in the United States*
15 *or the foreign equivalent shall be allo-*
16 *cated 15 points.*

17 “(II) *An alien who has received a*
18 *master’s degree from an institution of*
19 *higher education in the United States*
20 *or the foreign equivalent shall be allo-*
21 *cated 10 points.*

22 “(ii) *An alien who has received a bach-*
23 *elor’s degree from an institution of higher*
24 *education (as defined in section 101(a) of*

1 *the Higher Education Act of 1965 (20*
2 *U.S.C. 1001(a)) shall be allocated 5 points.*

3 “(B) *EMPLOYMENT EXPERIENCE.—An alien*
4 *shall be allocated not more than 20 points as fol-*
5 *lows:*

6 “(i) *3 points for each year the alien*
7 *has been lawfully employed in a zone 5 oc-*
8 *cupation in the United States.*

9 “(ii) *2 points for each year the alien*
10 *has been lawfully employed in a zone 4 oc-*
11 *cupation in the United States.*

12 “(C) *EMPLOYMENT RELATED TO EDU-*
13 *CATION.—An alien who is in the United States*
14 *and is employed full-time or has an offer of full-*
15 *time employment in a field related to the alien’s*
16 *education—*

17 “(i) *in a zone 5 occupation shall be al-*
18 *located 10 points; or*

19 “(ii) *in a zone 4 occupation shall be*
20 *allocated 8 points.*

21 “(D) *ENTREPRENEURSHIP.—An alien who*
22 *is an entrepreneur in business that employs at*
23 *least 2 employees in a zone 4 occupation or a*
24 *zone 5 occupation shall be allocated 10 points.*

1 “(E) *HIGH DEMAND OCCUPATION.*—An
2 *alien who is employed full-time in the United*
3 *States or has an offer of full-time employment in*
4 *a high demand tier 1 occupation shall be allo-*
5 *cated 10 points.*

6 “(F) *CIVIC INVOLVEMENT.*—An alien who
7 *has attested that he or she has engaged in a sig-*
8 *nificant amount of community service, as deter-*
9 *mined by the Secretary, shall be allocated 2*
10 *points.*

11 “(G) *ENGLISH LANGUAGE.*—An alien who
12 *received a score of 80 or more on the Test of*
13 *English as a Foreign Language, or an equivalent*
14 *score on a similar test, as determined by the Sec-*
15 *retary, shall be allocated 10 points.*

16 “(H) *SIBLINGS AND MARRIED SONS AND*
17 *DAUGHTERS OF CITIZENS.*—An alien who is the
18 *sibling of a citizen of the United States or who*
19 *is over 31 years of age and is the married son*
20 *or married daughter of a citizen of the United*
21 *States shall be allocated 10 points.*

22 “(I) *AGE.*—An alien who is—

23 “(i) *between 18 and 24 years of age*
24 *shall be allocated 8 points;*

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1 “(ii) *between 25 and 32 years of age*
2 *shall be allocated 6 points; or*

3 “(iii) *between 33 and 37 years of age*
4 *shall be allocated 4 points.*

5 “(J) *COUNTRY OF ORIGIN.—An alien who is*
6 *a national of a country of which fewer than*
7 *50,000 nationals were lawfully admitted to per-*
8 *manent residence in the United States in the*
9 *previous 5 years shall be allocated 5 points.*

10 “(5) *TIER 2.—The Secretary shall allocate points*
11 *to each alien seeking to be a tier 2 merit-based immi-*
12 *grant as follows:*

13 “(A) *EMPLOYMENT EXPERIENCE.—An alien*
14 *shall be allocated 2 points for each year the alien*
15 *has been lawfully employed in the United States,*
16 *for a total of not more than 20 points.*

17 “(B) *SPECIAL EMPLOYMENT CRITERIA.—An*
18 *alien who is employed full-time in the United*
19 *States, or has an offer of full-time employment—*

20 “(i) *in a high demand tier 2 occupa-*
21 *tion shall be allocated 10 points; or*

22 “(ii) *in a zone 1, zone 2, or zone 3 oc-*
23 *cupation shall be allocated 10 points.*

1 “(C) *CAREGIVER.*—*An alien who is or has*
2 *been a primary caregiver shall be allocated 10*
3 *points.*

4 “(D) *EXCEPTIONAL EMPLOYMENT*
5 *RECORD.*—*An alien who has a record of excep-*
6 *tional employment, as determined by the Sec-*
7 *retary, shall be allocated 10 points. In deter-*
8 *mining a record of exceptional employment, the*
9 *Secretary shall consider factors including pro-*
10 *motions, longevity, changes in occupations from*
11 *a lower job zone to a higher job zone, partici-*
12 *ipated in safety training, and increases in pay.*

13 “(E) *CIVIC INVOLVEMENT.*—*An alien who*
14 *has demonstrated significant civic involvement*
15 *shall be allocated 2 points.*

16 “(F) *ENGLISH LANGUAGE.*—

17 “(i) *ENGLISH PROFICIENCY.*—*An alien*
18 *who has demonstrated English proficiency,*
19 *as determined by a standardized test des-*
20 *ignated by the Secretary of Education, shall*
21 *be allocated 10 points.*

22 “(ii) *ENGLISH KNOWLEDGE.*—*An alien*
23 *who has demonstrated English knowledge,*
24 *as determined by a standardized test des-*

1 *ignated by the Secretary of Education, shall*
2 *be allocated 5 points.*

3 “(G) *SIBLINGS AND MARRIED SONS AND*
4 *DAUGHTERS OF CITIZENS.—An alien who is the*
5 *sibling of a citizen of the United States or is*
6 *over the age of 31 and is the married son or*
7 *married daughter of a citizen of the United*
8 *States shall be allocated 10 points.*

9 “(H) *AGE.—An alien who is—*

10 “(i) *between 18 and 24 years of age*
11 *shall be allocated 8 points;*

12 “(ii) *between 25 and 32 years of age*
13 *shall be allocated 6 points; or*

14 “(iii) *between 33 and 37 years of age*
15 *shall be allocated 4 points.*

16 “(I) *COUNTRY OF ORIGIN.—An alien who is*
17 *a national of a country of which fewer than*
18 *50,000 nationals were lawfully admitted to per-*
19 *manent residence in the United States in the*
20 *previous 5 years shall be allocated 5 points.*

21 “(6) *FEE.—An alien who is allocated a visa*
22 *under this subsection shall pay a fee of \$1,500 in ad-*
23 *dition to any fee assessed to cover the costs to process*
24 *an application under this subsection. Fees collected*
25 *under this paragraph shall be deposited by the Sec-*

1 *retary into the Comprehensive Immigration Reform*
2 *Trust Fund established under section 6(a)(1) of the*
3 *Border Security, Economic Opportunity, and Immi-*
4 *gration Modernization Act.*

5 “(7) *ELIGIBILITY OF ALIENS IN REGISTERED*
6 *PROVISIONAL IMMIGRANT STATUS.—An alien who was*
7 *granted registered provisional immigrant status*
8 *under section 245B is not eligible to receive a merit-*
9 *based immigrant visa under section 201(e).*

10 “(8) *INELIGIBILITY OF ALIENS WITH PENDING*
11 *OR APPROVED PETITIONS.—An alien who has a peti-*
12 *tion pending or approved in another immigrant cat-*
13 *egory under this section or section 201 may not apply*
14 *for a merit-based immigrant visa.*

15 “(9) *DEFINITIONS.—In this subsection:*

16 “(A) *HIGH DEMAND TIER 1 OCCUPATION.—*
17 *The term ‘high demand tier 1 occupation’ means*
18 *1 of the 5 occupations for which the highest num-*
19 *ber of nonimmigrants described in section*
20 *101(a)(15)(H)(i) were sought to be admitted by*
21 *employers during the previous fiscal year.*

22 “(B) *HIGH DEMAND TIER 2 OCCUPATION.—*
23 *The term ‘high demand tier 2 occupation’ means*
24 *1 of the 5 occupations for which the highest num-*
25 *ber of positions were sought to become registered*

1 *positions by employers under section 220(e) dur-*
2 *ing the previous fiscal year.*

3 “(C) *SECRETARY.*—*The term ‘Secretary’*
4 *means the Secretary of Homeland Security.*

5 “(D) *ZONE 1 OCCUPATION.*—*The term ‘zone*
6 *1 occupation’ means an occupation that requires*
7 *little or no preparation and is classified as a*
8 *zone 1 occupation on—*

9 *“(i) the Occupational Information Net-*
10 *work Database (O*NET) on the date of the*
11 *enactment of the Border Security, Economic*
12 *Opportunity, and Immigration Moderniza-*
13 *tion 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 ‘zone*
19 *2 occupation’ means an occupation that requires*
20 *some preparation and is classified as a zone 2*
21 *occupation on—*

22 *“(i) the Occupational Information Net-*
23 *work Database (O*NET) on the date of the*
24 *enactment of the Border Security, Economic*

1 *Opportunity, and Immigration Moderniza-*
2 *tion 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 ‘zone*
8 *3 occupation’ means an occupation that requires*
9 *medium preparation and is classified as a zone*
10 *3 occupation on—*

11 “(i) *the Occupational Information Net-*
12 *work Database (O*NET) on the date of the*
13 *enactment of the Border Security, Economic*
14 *Opportunity, and Immigration Moderniza-*
15 *tion 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 ‘zone*
21 *4 occupation’ means an occupation that requires*
22 *considerable preparation and is classified as a*
23 *zone 4 occupation on—*

24 “(i) *the Occupational Information Net-*
25 *work Database (O*NET) on the date of the*

1 *enactment of the Border Security, Economic*
2 *Opportunity, and Immigration Moderniza-*
3 *tion 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 ‘zone*
9 *5 occupation’ means an occupation that requires*
10 *extensive preparation and is classified as a zone*
11 *5 occupation on—*

12 “(i) *the Occupational Information Net-*
13 *work Database (O*NET) on the date of the*
14 *enactment of the Border Security, Economic*
15 *Opportunity, and Immigration Moderniza-*
16 *tion 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 Na-*

1 *tionality Act, as amended by paragraph (2), to*
2 *determine, during the first 7 years of such sys-*
3 *tem—*

4 *(i) how the points described in para-*
5 *graphs (4)(H), (4)(J), (5)(G), and (5)(I) of*
6 *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 Comp-
3 troller General shall submit a report to Congress
4 that describes the results of the study conducted
5 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 this
12 section shall take effect on the first day of the first fiscal
13 year beginning after the date of the enactment of this Act.

14 **SEC. 2302. MERIT-BASED TRACK TWO.**

15 (a) *IN GENERAL.*—In addition to any immigrant visa
16 made available under the Immigration and Nationality Act
17 (8 U.S.C. 1101 et seq.), as amended by this Act, the Sec-
18 retary of State shall allocate merit-based immigrant visas
19 as described in this section.

20 (b) *STATUS.*—An alien admitted on the basis of a
21 merit-based immigrant visa under this section shall have
22 the status of an alien lawfully admitted for permanent resi-
23 dence (as that term is defined in section 101(a)(20) of the
24 Immigration and Nationality Act (8 U.S.C. 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 status*
7 *under section 203(b) of the Immigration and Nation-*
8 *ality Act, if the visa has not been issued within 5*
9 *years after the date on which such petition was filed.*

10 (2) *FAMILY-SPONSORED IMMIGRANTS.*—*Subject*
11 *to subsection (d), an alien who is the beneficiary of*
12 *a petition filed to accord status under section 203(a)*
13 *of the Immigration and Nationality Act—*

14 (A) *prior to the date of the enactment of*
15 *this Act, if the visa was not issued within 5*
16 *years after the date on which such petition was*
17 *filed; or*

18 (B) *after such date of enactment, to accord*
19 *status under paragraph (3) or (4) of section*
20 *203(a) of the Immigration and Nationality Act*
21 *(8 U.S.C. 1153(a)), as in effect the minute before*
22 *the effective date specified in section 2307(a)(3)*
23 *of this Act, and the visa was not issued within*
24 *5 years after the date on which petition was*
25 *filed.*

1 (3) *LONG-TERM ALIEN WORKERS AND OTHER*
2 *MERIT-BASED IMMIGRANTS.—An alien who—*

3 (A) *is not admitted pursuant to subpara-*
4 *graph (W) of section 101(a)(15) of the Immigra-*
5 *tion and Nationality Act (8 U.S.C. 1101(a)(15));*
6 *and*

7 (B) *has been lawfully present in the United*
8 *States in a status that allows for employment*
9 *authorization for a continuous period, not count-*
10 *ing brief, casual, and innocent absences, of not*
11 *less than 10 years.*

12 (d) *ALLOCATION OF EMPLOYMENT-SPONSORED MERIT-*
13 *BASED IMMIGRANT VISAS.—In each of the fiscal years 2015*
14 *through and including 2021, the Secretary of State shall*
15 *allocate to aliens described in subsection (c)(1) a number*
16 *of merit-based immigrant visas equal to $\frac{1}{7}$ of the number*
17 *of aliens described in subsection (c)(1) whose visas had not*
18 *been issued as of the date of the enactment of this Act.*

19 (e) *ALLOCATION OF FAMILY-SPONSORED MERIT-BASED*
20 *IMMIGRANT VISAS.—The visas authorized by subsection*
21 *(c)(2) shall be allocated as follows:*

22 (1) *SPOUSES AND CHILDREN OF PERMANENT*
23 *RESIDENTS.—Petitions to accord status under section*
24 *203(a)(2)(A) of the Immigration and Nationality Act*
25 *(8 U.S.C. 1153(a)(2)(A)), as in effect the minute be-*

1 *fore the effective date specified in section 2307(a)(3)*
2 *of this Act, are automatically converted to petitions*
3 *to accord status to the same beneficiaries as imme-*
4 *diate relatives under section 201(b)(2)(A) of the Im-*
5 *migration and Nationality Act (8 U.S.C.*
6 *1151(b)(2)(A)).*

7 (2) *OTHER FAMILY MEMBERS.—In each of the*
8 *fiscal years 2015 through and including 2021, the*
9 *Secretary of State shall allocate to the aliens de-*
10 *scribed in subsection (c)(2)(A), other than those aliens*
11 *described in paragraph (1), a number of transitional*
12 *merit-based immigrant visas equal to $\frac{1}{7}$ of the dif-*
13 *ference between—*

14 (A) *the number of aliens described in sub-*
15 *section (c)(2)(A) whose visas had not been issued*
16 *as of the date of the enactment of this Act; and*

17 (B) *the number of aliens described in para-*
18 *graph (1).*

19 (3) *ORDER OF ISSUANCE FOR PREVIOUSLY FILED*
20 *APPLICATIONS.—Subject to paragraphs (1) and (2),*
21 *the visas authorized by subsection (c)(2)(A) shall be*
22 *issued without regard to a per country limitation in*
23 *the order described in section 203(a) of the Immigra-*
24 *tion and Nationality Act (8 U.S.C. 1153(a)), as*
25 *amended by section 2305(b), in the order in which the*

1 *petitions to accord status under such section 203(a)*
2 *were filed prior to the date of the enactment of this*
3 *Act.*

4 (4) *SUBSEQUENTLY FILED APPLICATIONS.—In*
5 *fiscal year 2022, the Secretary of State shall allocate*
6 *to the aliens described in subsection (c)(2)(B), the*
7 *number of merit-based immigrant visas equal to 1/2 of*
8 *the number of aliens described in subsection (c)(2)(B)*
9 *whose visas had not been issued by October 1, 2021.*
10 *In fiscal year 2023, the Secretary of State shall allo-*
11 *cate to the aliens described in subsection (c)(2)(B), the*
12 *number of merit-based immigrant visas equal to the*
13 *number of aliens described in subsection (c)(2)(B)*
14 *whose visas had not been issued by October 1, 2022.*

15 (5) *ORDER OF ISSUANCE FOR SUBSEQUENTLY*
16 *FILED APPLICATIONS.—Subject to paragraph (4), the*
17 *visas authorized by subsection (c)(2)(B) shall be*
18 *issued in the order in which the petitions to accord*
19 *status under section 203(a) of the Immigration and*
20 *Nationality Act were filed, as in effect the minute be-*
21 *fore the effective date specified in section 2307(a)(3)*
22 *of this Act.*

23 (f) *ELIGIBILITY IN YEARS AFTER 2028.—Beginning in*
24 *fiscal year 2029, aliens eligible for adjustment of status*
25 *under paragraph (c)(3) of this section must be lawfully*

1 *present in an employment authorized status for 20 years*
2 *prior to filing an application for adjustment of status.*

3 **SEC. 2303. REPEAL OF THE DIVERSITY VISA PROGRAM.**

4 *(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is*
5 *amended—*

6 *(1) in section 201(a) (8 U.S.C. 1151(a))—*

7 *(A) in paragraph (1), by adding “and” at*
8 *the end;*

9 *(B) in paragraph (2), by striking “; and”*
10 *at the end and inserting a period; and*

11 *(C) by striking paragraph (3);*

12 *(2) in section 203 (8 U.S.C. 1153)—*

13 *(A) by striking subsection (c);*

14 *(B) in subsection (e)—*

15 *(i) by striking paragraph (2); and*

16 *(ii) by redesignating paragraph (3) as*
17 *paragraph (2);*

18 *(C) in subsection (f), by striking “(a), (b),*
19 *or (c) of this section” and inserting “(a) or (b)”;*
20 *and*

21 *(D) in subsection (g), by striking “(a), (b),*
22 *and (c)” and inserting “(a) and (b)”;* *and*

23 *(3) in section 204 (8 U.S.C. 1154)—*

24 *(A) in subsection (a), as amended by section*
25 *2305(d)(6)(A)(i), by striking paragraph (8); and*

1 (B) in subsection (e), by striking “(a), (b),
2 or (c)” and inserting “(a) or (b)”.

3 (b) *EFFECTIVE DATE AND APPLICATION.*—

4 (1) *EFFECTIVE DATE.*—*The amendments made*
5 *by this section shall take effect on October 1, 2014.*

6 (2) *APPLICATION.*—*An alien who receives a noti-*
7 *fication from the Secretary that the alien was selected*
8 *to receive a diversity immigrant visa under section*
9 *203(c) of the Immigration and Nationality Act (8*
10 *U.S.C. 1153(c)) for fiscal year 2013 or fiscal year*
11 *2014 shall remain eligible to receive such visa under*
12 *the rules of such section, as in effect on September 30,*
13 *2014. No alien may be allocated such a diversity im-*
14 *migrant visa for a fiscal year after fiscal year 2015.*

15 **SEC. 2304. WORLDWIDE LEVELS AND RECAPTURE OF UN-**
16 **USED IMMIGRANT VISAS.**

17 (a) *EMPLOYMENT-BASED IMMIGRANTS.*—*Section*
18 *201(d) (8 U.S.C. 1151(d)) is amended to read as follows:*

19 “(d) *WORLDWIDE LEVEL OF EMPLOYMENT-BASED IM-*
20 *MIGRANTS.*—

21 “(1) *IN GENERAL.*—

22 “(A) *WORLDWIDE LEVEL.*—*For a fiscal*
23 *year after fiscal year 2015, the worldwide level*
24 *of employment-based immigrants under this sub-*
25 *section is equal to the sum of—*

1 “(i) 140,000; and

2 “(ii) the number computed under
3 paragraph (2).

4 “(B) FISCAL YEAR 2015.—For fiscal year
5 2015, the worldwide level of employment-based
6 immigrants under this subsection is equal to the
7 sum of—

8 “(i) 140,000;

9 “(ii) the number computed under
10 paragraph (2); and

11 “(iii) the number computed under
12 paragraph (3).

13 “(2) PREVIOUS FISCAL YEAR.—The number com-
14 puted under this paragraph for a fiscal year is the
15 difference, if any, between the maximum number of
16 visas which may be issued under section 203(a) (re-
17 lating to family-sponsored immigrants) during the
18 previous fiscal year and the number of visas issued
19 under that section during that year.

20 “(3) UNUSED VISAS.—The number computed
21 under this paragraph is the difference, if any, be-
22 tween—

23 “(A) the sum of the worldwide levels estab-
24 lished under paragraph (1), as in effect on the
25 day before the date of the enactment of the Bor-

1 “(ii) the number computed under
2 paragraph (3); and

3 “(iii) the number computed under
4 paragraph (4).

5 “(C) *LIMITATION.*—*The number computed*
6 *under subparagraph (A)(i) or (B)(i) may not be*
7 *less than 226,000, except that beginning on the*
8 *date that is 18 months after the date of the en-*
9 *actment of the Border Security, Economic Op-*
10 *portunity, and Immigration Modernization Act,*
11 *the number computed under subparagraph (A)(i)*
12 *or (B)(i) may not be less than 161,000.*

13 “(2) *IMMEDIATE RELATIVES.*—*The number com-*
14 *puted under this paragraph for a fiscal year is the*
15 *number of aliens described in subparagraph (A) or*
16 *(B) of subsection (b)(2) who were issued immigrant*
17 *visas, or who otherwise acquired the status of an alien*
18 *lawfully admitted to the United States for permanent*
19 *residence, in the previous fiscal year.*

20 “(3) *PREVIOUS FISCAL YEAR.*—*The number com-*
21 *puted under this paragraph for a fiscal year is the*
22 *difference, if any, between the maximum number of*
23 *visas which may be issued under section 203(b) (re-*
24 *lating to employment-based immigrants) during the*

1 *previous fiscal year and the number of visas issued*
2 *under that section during that year.*

3 “(4) *UNUSED VISAS.*—*The number computed*
4 *under this paragraph is the difference, if any, be-*
5 *tween—*

6 “(A) *the sum of the worldwide levels estab-*
7 *lished under paragraph (1) for fiscal years 1992*
8 *through and including 2013; and*

9 “(B) *the number of visas actually issued*
10 *under section 203(a) during such fiscal years.”.*

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
12 *section shall take effect on the first day of the first fiscal*
13 *year beginning after the date of the enactment of this Act.*

14 **SEC. 2305. RECLASSIFICATION OF SPOUSES AND MINOR**
15 **CHILDREN OF LAWFUL PERMANENT RESI-**
16 **DENTS AS IMMEDIATE RELATIVES.**

17 (a) *IMMEDIATE RELATIVES.*—*Section 201(b)(2) (8*
18 *U.S.C. 1151(b)(2)) is amended to read as follows:*

19 “(2)(A) *Aliens who are immediate relatives.*

20 “(B) *In this paragraph, the term ‘immediate rel-*
21 *ative’ means—*

22 “(i) *a child, spouse, or parent of a citizen*
23 *of the United States, except that in the case of*
24 *such a parent such citizen shall be at least 21*
25 *years of age;*

1 “(ii) a child or spouse of an alien lawfully
2 admitted for permanent residence;

3 “(iii) a child or spouse of an alien described
4 in clause (i), who is accompanying or following
5 to join the alien;

6 “(iv) a child or spouse of an alien described
7 in clause (ii), who is accompanying or following
8 to join the alien;

9 “(v) an alien admitted under section 211(a)
10 on the basis of a prior issuance of a visa to the
11 alien’s accompanying parent who is an imme-
12 diate relative; and

13 “(vi) an alien born to an alien lawfully ad-
14 mitted for permanent residence during a tem-
15 porary visit abroad.

16 “(C) If an alien who was the spouse or child of
17 a citizen of the United States or of an alien lawfully
18 admitted for permanent residence and was not legally
19 separated from the citizen or lawful permanent resi-
20 dent at the time of the citizen’s or lawful permanent
21 resident’s death files a petition under section
22 204(a)(1)(B), the alien spouse (and each child of the
23 alien) shall remain, for purposes of this paragraph,
24 an immediate relative during the period beginning on
25 the date of the citizen’s or permanent resident’s death

1 *and ending on the date on which the alien spouse re-*
2 *marries.*

3 “(D) *An alien who has filed a petition under*
4 *clause (iii) or (iv) of section 204(a)(1)(A) shall re-*
5 *main, for purposes of this paragraph, an immediate*
6 *relative if the United States citizen or lawful perma-*
7 *nent resident spouse or parent loses United States*
8 *citizenship on account of the abuse.”.*

9 (b) *ALLOCATION OF IMMIGRANT VISAS.—Section*
10 203(a) (8 U.S.C. 1153(a)) *is amended—*

11 (1) *in paragraph (1), by striking “23,400,” and*
12 *inserting “20 percent of the worldwide level of family-*
13 *sponsored immigrants under section 201(c)”;*

14 (2) *by striking paragraph (2) and inserting the*
15 *following:*

16 “(2) *UNMARRIED SONS AND UNMARRIED DAUGH-*
17 *TERS OF PERMANENT RESIDENT ALIENS.—Qualified*
18 *immigrants who are the unmarried sons or unmar-*
19 *ried daughters (but are not the children) of an alien*
20 *lawfully admitted for permanent residence shall be al-*
21 *located visas in a number not to exceed 20 percent of*
22 *the worldwide level of family-sponsored immigrants*
23 *under section 201(c), plus any visas not required for*
24 *the class specified in paragraph (1).”;*

25 (3) *in paragraph (3)—*

1 (A) by striking “23,400,” and inserting “20
2 percent of the worldwide level of family-spon-
3 sored immigrants under section 201(c)”; and

4 (B) by striking “classes specified in para-
5 graphs (1) and (2).” and inserting “class speci-
6 fied in paragraph (2).”; and

7 (4) in paragraph (4)—

8 (A) by striking “65,000,” and inserting “40
9 percent of the worldwide level of family-spon-
10 sored immigrants under section 201(c)”; and

11 (B) by striking “classes specified in para-
12 graphs (1) through (3).” and inserting “class
13 specified in paragraph (3).”.

14 (c) *TERMINATION OF REGISTRATION.*—Section 203(g)
15 (8 U.S.C. 1153(g)) is amended to read as follows:

16 “(g) *LISTS.*—

17 “(1) *IN GENERAL.*—For purposes of carrying out
18 the orderly administration of this title, the Secretary
19 of State may make reasonable estimates of the antici-
20 pated numbers of immigrant visas to be issued during
21 any quarter of any fiscal year within each of the cat-
22 egories under subsections (a), (b), and (c) and may
23 rely upon such estimates in authorizing the issuance
24 of visas.

25 “(2) *TERMINATION OF REGISTRATION.*—

1 “(A) *INFORMATION DISSEMINATION.*—Not
2 later than 180 days after the date of the enact-
3 ment of the *Border Security, Economic Oppor-*
4 *tunity, and Immigration Modernization Act*, the
5 *Secretary of Homeland Security and the Sec-*
6 *retary of State shall adopt a plan to broadly dis-*
7 *seminate information to the public regarding ter-*
8 *mination of registration procedures described in*
9 *subparagraphs (B) and (C), including proce-*
10 *dures for notifying the Department of Homeland*
11 *Security and the Department of State of any*
12 *change of address on the part of a petitioner or*
13 *a beneficiary of an immigrant visa petition.*

14 “(B) *TERMINATION FOR FAILURE TO AD-*
15 *JUST.*—The *Secretary of Homeland Security*
16 *shall terminate the registration of any alien who*
17 *has evidenced an intention to acquire lawful per-*
18 *manent residence under section 245 and who*
19 *fails to apply to adjust status within 1 year fol-*
20 *lowing notification to the alien of the avail-*
21 *ability of an immigrant visa.*

22 “(C) *TERMINATION FOR FAILURE TO*
23 *APPLY.*—The *Secretary of State shall terminate*
24 *the registration of any alien not described in*
25 *subparagraph (B) who fails to apply for an im-*

1 *migrant visa within 1 year following notifica-*
2 *tion to the alien of the availability of such visa.*

3 “(3) *REINSTATEMENT.*—*The registration of any*
4 *alien that was terminated under paragraph (2) shall*
5 *be reinstated if, within 2 years following the date of*
6 *notification of the availability of such visa, the alien*
7 *demonstrates that such failure to apply was due to*
8 *good cause.”.*

9 (d) *TECHNICAL AND CONFORMING AMENDMENTS.*—

10 (1) *DEFINITIONS.*—*Section 101(a)(15)(K)(ii) (8*
11 *U.S.C. 1101(a)(15)(K)(ii)) is amended by striking*
12 *“section 201(b)(2)(A)(i)” and inserting “section*
13 *201(b)(2) (other than clause (v) or (vi) of subpara-*
14 *graph (B))”.*

15 (2) *PER COUNTRY LEVEL.*—*Section 202(a)(1)(A)*
16 *(8 U.S.C. 1152(a)(1)(A)) is amended by striking “sec-*
17 *tion 201(b)(2)(A)(i)” and inserting “section 201(b)(2)*
18 *(other than clause (v) or (vi) of subparagraph (B))”.*

19 (3) *RULES FOR DETERMINING WHETHER CER-*
20 *TAIN ALIENS ARE IMMEDIATE RELATIVES.*—*Section*
21 *201(f) (8 U.S.C. 1151(f)) is amended—*

22 (A) *in paragraph (1), by striking “para-*
23 *graphs (2) and (3),” and inserting “paragraph*
24 *(2),”;*

25 (B) *by striking paragraph (2);*

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1 (C) by redesignating paragraphs (3) and
2 (4) as paragraphs (2) and (3), respectively; and
3 (D) in paragraph (3), as redesignated by
4 subparagraph (C), by striking “through (3)” and
5 inserting “and (2)”.

6 (4) *NUMERICAL LIMITATION TO ANY SINGLE FOR-*
7 *EIGN STATE.—Section 202(a)(4) (8 U.S.C.*
8 *1152(a)(4)) is amended—*

9 (A) by striking subparagraphs (A) and (B);
10 (B) by redesignating subparagraphs (C)
11 and (D) as subparagraphs (A) and (B), respec-
12 tively; and

13 (C) in subparagraph (A), as redesignated
14 by clause (ii), by striking “section 203(a)(2)(B)”
15 and inserting “section 203(a)(2)”.

16 (5) *ALLOCATION OF IMMIGRANT VISAS.—Section*
17 *203(h) (8 U.S.C. 1153(h)) is amended—*

18 (A) in paragraph (1)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “subsections
21 (a)(2)(A) and (d)” and inserting “sub-
22 section (d)”;

23 (ii) in subparagraph (A), by striking
24 “becomes available for such alien (or, in the
25 case of subsection (d), the date on which an

1 *immigrant visa number became available*
2 *for the alien's parent),” and inserting “be-*
3 *came available for the alien's parent,”; and*
4 *(iii) in subparagraph (B), by striking*
5 *“applicable”;*

6 *(B) by amending paragraph (2) to read as*
7 *follows:*

8 *“(2) PETITIONS DESCRIBED.—The petition de-*
9 *scribed in this paragraph is a petition filed under*
10 *section 204 for classification of the alien's parent*
11 *under subsection (a), (b), or (c).”;* and

12 *(C) by amending paragraph (3) to read as*
13 *follows:*

14 *“(3) RETENTION OF PRIORITY DATE.—*

15 *“(A) PETITIONS FILED FOR CHILDREN.—*
16 *For a petition originally filed to classify a child*
17 *under subsection (d), if the age of the alien is de-*
18 *termined under paragraph (1) to be 21 years of*
19 *age or older on the date that a visa number be-*
20 *comes available to the alien's parent who was the*
21 *principal beneficiary of the petition, then, upon*
22 *the parent's admission to lawful permanent resi-*
23 *dence in the United States, the petition shall*
24 *automatically be converted to a petition filed by*
25 *the parent for classification of the alien under*

1 *subsection (a)(2) and the petition shall retain the*
2 *priority date established by the original petition.*

3 “(B) *FAMILY AND EMPLOYMENT-BASED PE-*
4 *TITIONS.—The priority date for any family- or*
5 *employment-based petition shall be the date of*
6 *filing of the petition with the Secretary of Home-*
7 *land Security (or the Secretary of State, if ap-*
8 *plicable), unless the filing of the petition was*
9 *preceded by the filing of a labor certification*
10 *with the Secretary of Labor, in which case that*
11 *date shall constitute the priority date. The bene-*
12 *ficiary of any petition shall retain his or her*
13 *earliest priority date based on any petition filed*
14 *on his or her behalf that was approvable when*
15 *filed, regardless of the category of subsequent pe-*
16 *titions.”.*

17 (6) *PROCEDURE FOR GRANTING IMMIGRANT STA-*
18 *TUS.—*

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 or*

1 *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 Sec-*
10 *retary under this paragraph for classification of the*
11 *alien (and the alien’s children) under such section.*

12 *“(C)(i) An alien who is described in clause (ii)*
13 *may file a petition with the Secretary under this sub-*
14 *paragraph for classification of the alien (and any*
15 *child of the alien) if the alien demonstrates to the Sec-*
16 *retary that—*

17 *“(I) the marriage or the intent to marry the*
18 *citizen of the United States or lawful permanent*
19 *resident was entered into in good faith by the*
20 *alien; and*

21 *“(II) during the marriage or relationship*
22 *intended by the alien to be legally a marriage,*
23 *the alien or a child of the alien has been battered*
24 *or has been the subject of extreme cruelty per-*
25 *petrated by the alien’s spouse or intended spouse.*

1 “(ii) For purposes of clause (i), an alien de-
2 scribed in this clause is an alien—

3 “(I)(aa) who is the spouse of a citizen of the
4 United States or lawful permanent resident;

5 “(bb) who believed that he or she had mar-
6 ried a citizen of the United States or lawful per-
7 manent resident and with whom a marriage
8 ceremony was actually performed and who other-
9 wise meets any applicable requirements under
10 this Act to establish the existence of and bona
11 fides of a marriage, but whose marriage is not
12 legitimate solely because of the bigamy of such
13 citizen of the United States or lawful permanent
14 resident; or

15 “(cc) who was a bona fide spouse of a cit-
16 izen of the United States or a lawful permanent
17 resident within the past 2 years and—

18 “(AA) whose spouse died within the
19 past 2 years;

20 “(BB) whose spouse renounced citizen-
21 ship status or renounced or lost status as a
22 lawful permanent resident within the past 2
23 years related to an incident of domestic vio-
24 lence; or

1 “(CC) who demonstrates a connection
2 between the legal termination of the mar-
3 riage within the past 2 years and battering
4 or extreme cruelty by a spouse who is a cit-
5 izen of the United States or a lawful perma-
6 nent resident spouse;

7 “(II) who is a person of good moral char-
8 acter;

9 “(III) who is eligible to be classified as an
10 immediate relative under section 201(b)(2)(A) or
11 who would have been so classified but for the
12 bigamy of the citizen of the United States that
13 the alien intended to marry; and

14 “(IV) who has resided with the alien’s
15 spouse or intended spouse.

16 “(D) An alien who is the child of a citizen or
17 lawful permanent resident of the United States, or
18 who was a child of a United States citizen or lawful
19 permanent resident parent who within the past 2
20 years lost or renounced citizenship status related to
21 an incident of domestic violence, and who is a person
22 of good moral character, who is eligible to be classified
23 as an immediate relative under section 201(b)(2)(A),
24 and who resides, or has resided in the past, with the
25 citizen or lawful permanent resident parent may file

1 *a petition with the Secretary of Homeland Security*
2 *under this paragraph for classification of the alien*
3 *(and any child of the alien) under such section if the*
4 *alien demonstrates to the Secretary that the alien has*
5 *been battered by or has been the subject of extreme*
6 *cruelty perpetrated by the alien's citizen or lawful*
7 *permanent resident parent. For purposes of this sub-*
8 *paragraph, residence includes any period of visita-*
9 *tion.*

10 *“(E) An alien who—*

11 *“(i) is the spouse, intended spouse, or child*
12 *living abroad of a citizen or lawful permanent*
13 *resident who—*

14 *“(I) is an employee of the United*
15 *States Government;*

16 *“(II) is a member of the uniformed*
17 *services (as defined in section 101(a) of title*
18 *10, United States Code); or*

19 *“(III) has subjected the alien or the*
20 *alien's child to battery or extreme cruelty in*
21 *the United States; and*

22 *“(ii) is eligible to file a petition under sub-*
23 *paragraph (C) or (D),*

24 *shall file such petition with the Secretary of Home-*
25 *land Security under the procedures that apply to self-*

1 *petitioners under subparagraph (C) or (D), as appli-*
2 *cable.*

3 *“(F) For the purposes of any petition filed under*
4 *subparagraph (C) or (D), the denaturalization, loss or*
5 *renunciation of citizenship or lawful permanent resi-*
6 *dent status, death of the abuser, divorce, or changes*
7 *to the abuser’s citizenship or lawful permanent resi-*
8 *dent status after filing of the petition shall not ad-*
9 *versely affect the approval of the petition, and for ap-*
10 *proved petitions shall not preclude the classification*
11 *of the eligible self-petitioning spouse or child as an*
12 *immediate relative or affect the alien’s ability to ad-*
13 *just status under subsections (a) and (c) of section*
14 *245 or obtain status as a lawful permanent resident*
15 *based on the approved self-petition under such*
16 *clauses.*

17 *“(G) An alien may file a petition with the Sec-*
18 *retary of Homeland Security under this paragraph*
19 *for classification of the alien under section*
20 *201(b)(2)(A) if the alien—*

21 *“(i) is the parent of a citizen of the United*
22 *States or was a parent of a citizen of the United*
23 *States who, within the past 2 years, lost or re-*
24 *nounced citizenship status related to an incident*
25 *of domestic violence or died;*

1 “(ii) is a person of good moral character;

2 “(iii) is eligible to be classified as an imme-
3 diate relative under section 201(b)(2)(A);

4 “(iv) resides, or has resided, with the citizen
5 daughter or son; and

6 “(v) demonstrates that the alien has been
7 battered or subject to extreme cruelty by the cit-
8 izen daughter or son.

9 “(H)(i) Subparagraph (A) shall not apply to a
10 citizen of the United States who has been convicted of
11 a specified offense against a minor, unless the Sec-
12 retary of Homeland Security, in the Secretary’s sole
13 and unreviewable discretion, determines that the cit-
14 izen poses no risk to the alien with respect to whom
15 a petition described in subparagraph (A) is filed.

16 “(ii) For purposes of clause (i), the term ‘speci-
17 fied offense against a minor’ has the meaning given
18 such term in section 111 of the Adam Walsh Child
19 Protection and Safety Act of 2006 (42 U.S.C. 16911).

20 “(2) DETERMINATION OF GOOD MORAL CHAR-
21 ACTER.—Notwithstanding section 101(f), an act or
22 conviction that is waivable with respect to the peti-
23 tioner for purposes of a determination of the peti-
24 tioner’s admissibility under section 212(a) or deport-
25 ability under section 237(a) shall not bar the Sec-

1 *retary of Homeland Security from finding the peti-*
2 *tioner to be of good moral character under subpara-*
3 *graph (C) or (D) of paragraph (1), if the Secretary*
4 *finds that the act or conviction was connected to the*
5 *alien's having been battered or subjected to extreme*
6 *cruelty.*

7 *“(3) PREFERENCE STATUS.—(A)(i) Any child*
8 *who attains 21 years of age who has filed a petition*
9 *under paragraph (1)(D) that was filed or approved*
10 *before the date on which the child attained 21 years*
11 *of age shall be considered (if the child has not been*
12 *admitted or approved for lawful permanent residence*
13 *by the date the child attained 21 years of age) a peti-*
14 *tioner for preference status under paragraph (1), (2),*
15 *or (3) of section 203(a), whichever paragraph is ap-*
16 *plicable, with the same priority date assigned to the*
17 *self-petition filed under paragraph (1)(D). No new*
18 *petition shall be required to be filed.*

19 *“(ii) Any individual described in clause (i) is el-*
20 *igible for deferred action and work authorization.*

21 *“(iii) Any derivative child who attains 21 years*
22 *of age who is included in a petition described in sub-*
23 *paragraph (B) that was filed or approved before the*
24 *date on which the child attained 21 years of age shall*
25 *be considered (if the child has not been admitted or*

1 *approved for lawful permanent residence by the date*
2 *the child attained 21 years of age) a VAWA self-peti-*
3 *tioner with the same priority date as that assigned to*
4 *the petitioner in any petition described in subpara-*
5 *graph (B). No new petition shall be required to be*
6 *filed.*

7 *“(iv) Any individual described in clause (iii)*
8 *and any derivative child of a petitioner described in*
9 *subparagraph (B) is eligible for deferred action and*
10 *work authorization.*

11 *“(B) The petition referred to in subparagraph*
12 *(A)(iii) is a petition filed by an alien under subpara-*
13 *graph (C) or (D) of paragraph (1) in which the child*
14 *is included as a derivative beneficiary.*

15 *“(C) Nothing in the amendments made by the*
16 *Child Status Protection Act (Public Law 107–208;*
17 *116 Stat. 927) shall be construed to limit or deny any*
18 *right or benefit provided under this paragraph.*

19 *“(D) Any alien who benefits from this paragraph*
20 *may adjust status in accordance with subsections (a)*
21 *and (c) of section 245 as an alien having an ap-*
22 *proved petition for classification under subparagraph*
23 *(C) or (D) of paragraph (1).*

24 *“(E) For purposes of this paragraph, an indi-*
25 *vidual who is not less than 21 years of age, who*

1 *qualified to file a petition under paragraph (1)(D) as*
2 *of the minute before the date on which the individual*
3 *attained 21 years of age, and who did not file such*
4 *a petition before such day, shall be treated as having*
5 *filed a petition under such paragraph as of such day*
6 *if a petition is filed for the status described in such*
7 *paragraph before the individual attains 25 years of*
8 *age and the individual shows that the abuse was at*
9 *least 1 central reason for the filing delay. Subpara-*
10 *graphs (A) through (D) shall apply to an individual*
11 *described in this subparagraph in the same manner*
12 *as an individual filing a petition under paragraph*
13 *(1)(D).*

14 *“(4) CLASSIFICATION AS ALIEN WITH EXTRAOR-*
15 *DINARY ABILITY.—Any alien desiring to be classified*
16 *under subparagraph (I), (J), (K), (L), or (M) of sec-*
17 *tion 201(b)(1) or section 203(b)(1)(A), or any person*
18 *on behalf of such an alien, may file a petition with*
19 *the Secretary of Homeland Security for such classi-*
20 *fication.*

21 *“(5) CLASSIFICATION AS EMPLOYMENT-BASED*
22 *IMMIGRANT.—Any employer desiring and intending*
23 *to employ within the United States an alien entitled*
24 *to classification under paragraph (1)(B), (1)(C), (2),*
25 *or (3) of section 203(b) may file a petition with the*

1 *Secretary of Homeland Security for such classifica-*
2 *tion.*

3 “(6) *CLASSIFICATION AS SPECIAL IMMIGRANT.—*
4 *(A) Any alien (other than a special immigrant under*
5 *section 101(a)(27)(D)) desiring to be classified under*
6 *section 203(b)(4), or any person on behalf of such an*
7 *alien, may file a petition with the Secretary of Home-*
8 *land Security for such classification.*

9 “(B) *Aliens claiming status as a special immi-*
10 *grant under section 101(a)(27)(D) may file a petition*
11 *only with the Secretary of State and only after notifi-*
12 *cation by the Secretary that such status has been rec-*
13 *ommended and approved pursuant to such section.*

14 “(7) *CLASSIFICATION AS IMMIGRANT INVES-*
15 *TOR.—Any alien desiring to be classified under para-*
16 *graph (5) or (6) of section 203(b) may file a petition*
17 *with the Secretary of Homeland Security for such*
18 *classification.*

19 “(8) *DIVERSITY VISA.—(A) Any alien desiring to*
20 *be provided an immigrant visa under section 203(c)*
21 *may file a petition at the place and time determined*
22 *by the Secretary of State by regulation. Only 1 such*
23 *petition may be filed by an alien with respect to any*
24 *petitioning period established. If more than 1 petition*

1 *is submitted all such petitions submitted for such pe-*
2 *riod by the alien shall be voided.*

3 *“(B)(i) The Secretary of State shall designate a*
4 *period for the filing of petitions with respect to visas*
5 *which may be issued under section 203(c) for the fis-*
6 *cal year beginning after the end of the period.*

7 *“(ii) Aliens who qualify, through random selec-*
8 *tion, for a visa under section 203(c) shall remain eli-*
9 *gible to receive such visa only through the end of the*
10 *specific fiscal year for which they were selected.*

11 *“(iii) The Secretary of State shall prescribe such*
12 *regulations as may be necessary to carry out this sub-*
13 *paragraph.*

14 *“(C) A petition under this paragraph shall be in*
15 *such form as the Secretary of State may by regulation*
16 *prescribe and shall contain such information and be*
17 *supported by such documentary evidence as the Sec-*
18 *retary of State may require.*

19 *“(D) Each petition to compete for consideration*
20 *for a visa under section 203(c) shall be accompanied*
21 *by a fee equal to \$30. All amounts collected under this*
22 *subparagraph shall be deposited into the Treasury as*
23 *miscellaneous receipts.*

24 *“(9) CONSIDERATION OF CREDIBLE EVIDENCE.—*
25 *In acting on petitions filed under subparagraph (C)*

1 or (D) of paragraph (1), or in making determinations
2 under paragraphs (2) and (3), the Secretary of
3 Homeland Security shall consider any credible evi-
4 dence relevant to the petition. The determination of
5 what evidence is credible and the weight to be given
6 that evidence shall be within the sole discretion of the
7 Secretary.

8 “(10) WORK AUTHORIZATION.—(A) Upon the
9 approval of a petition as a VAWA self-petitioner, the
10 alien—

11 “(i) is eligible for work authorization; and

12 “(ii) may be provided an ‘employment au-
13 thorized’ endorsement or appropriate work per-
14 mit incidental to such approval.

15 “(B) Notwithstanding any provision of this Act
16 restricting eligibility for employment in the United
17 States, the Secretary of Homeland Security shall
18 grant employment authorization to an alien who has
19 filed an application for status as a VAWA self-peti-
20 tioner on the date that is the earlier of—

21 “(i) the date on which the alien’s applica-
22 tion for such status is approved; or

23 “(ii) a date determined by the Secretary
24 that is not later than 180 days after the date on
25 which the alien filed the application.

1 “(11) *LIMITATION.*—*Notwithstanding para-*
2 *graphs (1) through (10), an individual who was a*
3 *VAWA petitioner or who had the status of a non-*
4 *immigrant under subparagraph (T) or (U) of section*
5 *101(a)(15) may not file a petition for classification*
6 *under this section or section 214 to classify any per-*
7 *son who committed the battery or extreme cruelty or*
8 *trafficking against the individual (or the individual’s*
9 *child), which established the individual’s (or individ-*
10 *ual’s child’s) eligibility as a VAWA petitioner or for*
11 *such nonimmigrant status.”;*

12 *(ii) in subsection (c)(1), by striking*
13 *“or preference status”; and*

14 *(iii) in subsection (h), by striking “or*
15 *a petition filed under subsection*
16 *(a)(1)(B)(ii)”.*

17 *(B) CONFORMING AMENDMENTS.*—*The Act*
18 *(8 U.S.C. 1101 et seq.) is amended—*

19 *(i) in section 101(a)—*

20 *(I) in paragraph (15)(K), by*
21 *striking “204(a)(1)(A)(viii)(I)” each*
22 *place such term appears and inserting*
23 *“204(a)(1)(H)(i)”;*

24 *(II) in paragraph (50), by strik-*
25 *ing “204(a)(1)(A)(iii)(II)(aa)(BB),*

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1 204(a)(1)(B)(ii)(II)(aa)(BB),” and in-
2 serting “204(a)(1)(C)(ii)(I)(bb) or”;
3 and
4 (III) in paragraph (51)—
5 (aa) in subparagraph (A), by
6 striking “204(a)(1)(A)” and in-
7 serting “204(a)(1)”;
8 (bb) by striking subpara-
9 graph (B); and
10 (cc) by redesignating sub-
11 paragraphs (C), (D), (E), (F),
12 and (G) as subparagraphs (B),
13 (C), (D), (E), and (F), respec-
14 tively;
15 (ii) in section 106(a), by striking
16 “204(a)(1)(A)(iii)” and inserting
17 “204(a)(1)(C)”;
18 (iii) in section 212(a)(4)(C)(i)—
19 (I) in subclause (I), by striking
20 “clause (ii), (iii), or (iv) of section
21 204(a)(1)(A), or” and inserting “sub-
22 paragraph (B), (C), or (D) of section
23 204(a)(1);”;
24 (II) by striking subclause (II);
25 and

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1 (III) by redesignating subclause
2 (III) as subclause (II);

3 (iv) in section 216(c)(4)(D), by strik-
4 ing “204(a)(1)(A)(iii)(II)(aa)(BB)” and in-
5 serting “204(a)(1)(C)(ii)(I)(bb)”; and

6 (v) in section 240(c)(7)(C)(iv)(I), by
7 striking “clause (iii) or (iv) of section
8 204(a)(1)(A), clause (ii) or (iii) of section
9 204(a)(1)(B),” and inserting “subpara-
10 graph (C) or (D) of section 204(a)(1),”.

11 (7) EXCLUDABLE ALIENS.—Section
12 212(d)(12)(B) (8 U.S.C. 1182(d)(12)(B)) is amended
13 by striking “section 201(b)(2)(A)” and inserting “sec-
14 tion 201(b)(2) (other than subparagraph (B)(vi))”.

15 (8) ADMISSION OF NONIMMIGRANTS.—Section
16 214(r)(3)(A) (8 U.S.C. 1184(r)(3)(A)) is amended by
17 striking “section 201(b)(2)(A)(i).” and inserting “sec-
18 tion 201(b)(2) (other than clause (v) or (vi) of sub-
19 paragraph (B)).”.

20 (9) REFUGEE CRISIS IN IRAQ ACT OF 2007.—Sec-
21 tion 1243(a)(4) of the Refugee Crisis in Iraq Act of
22 2007 (8 U.S.C. 1157 note) is amended by striking
23 “section 201(b)(2)(A)(i)” and inserting “section
24 201(b)(2) (other than clause (v) or (vi) of subpara-
25 graph (B))”.

1 (10) *PROCESSING OF VISA APPLICATIONS.*—*Sec-*
2 *tion 233 of the Department of State Authorization*
3 *Act, Fiscal Year 2003 (8 U.S.C. 1201 note) is amend-*
4 *ed by striking “section 201(b)(2)(A)(i)” and inserting*
5 *“section 201(b)(2) (other than clause (v) or (vi) of*
6 *subparagraph (B))”.*

7 (11) *ADJUSTMENT OF STATUS.*—*Section 245(a)*
8 *(8 U.S.C. 1255(a)) is amended to read as follows:*

9 “(a)(1) *The status of an alien who was inspected and*
10 *admitted or paroled into the United States or the status*
11 *of any other alien having an approved petition for classi-*
12 *fication as a VAWA self-petitioner may be adjusted by the*
13 *Attorney General or the Secretary of Homeland Security,*
14 *in the Attorney General’s or the Secretary’s discretion and*
15 *under such regulations as the Attorney General or Secretary*
16 *may prescribe, to that of an alien lawfully admitted for*
17 *permanent residence (regardless of whether the alien has al-*
18 *ready been admitted for permanent residence) if—*

19 “(A) *the alien makes an application for such ad-*
20 *justment;*

21 “(B) *the alien is eligible to receive an immigrant*
22 *visa and is admissible to the United States for per-*
23 *manent residence; and*

1 (5) by striking “such subsections” and inserting
2 “such section”.

3 (b) *CONFORMING AMENDMENTS.*—Section 202 (8
4 *U.S.C. 1152*) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (3), by striking “both
7 subsections (a) and (b) of section 203” and in-
8 serting “section 203(a)”; and

9 (B) by striking paragraph (5); and

10 (2) by amending subsection (e) to read as fol-
11 lows:

12 “(e) *SPECIAL RULES FOR COUNTRIES AT CEILING.*—

13 *If it is determined that the total number of immigrant visas*
14 *made available under section 203(a) to natives of any single*
15 *foreign state or dependent area will exceed the numerical*
16 *limitation specified in subsection (a)(2) in any fiscal year,*
17 *in determining the allotment of immigrant visa numbers*
18 *to natives under section 203(a), visa numbers with respect*
19 *to natives of that state or area shall be allocated (to the*
20 *extent practicable and otherwise consistent with this section*
21 *and section 203) in a manner so that, except as provided*
22 *in subsection (a)(4), the proportion of the visa numbers*
23 *made available under each of paragraphs (1) through (4)*
24 *of section 203(a) is equal to the ratio of the total number*
25 *of visas made available under the respective paragraph to*

1 *the total number of visas made available under section*
2 *203(a).”.*

3 *(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chi-*
4 *nese Student Protection Act of 1992 (8 U.S.C. 1255 note)*
5 *is amended—*

6 *(1) in subsection (a), by striking “subsection*
7 *(e)” and inserting “subsection (d)”;* and

8 *(2) by striking subsection (d) and redesignating*
9 *subsection (e) as subsection (d).*

10 *(d) EFFECTIVE DATE.—The amendments made by this*
11 *section shall take effect 1 year after the date of the enact-*
12 *ment of this Act.*

13 **SEC. 2307. ALLOCATION OF IMMIGRANT VISAS.**

14 *(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-*
15 *SORED IMMIGRANTS.—*

16 *(1) IN GENERAL.—Section 203(a) (8 U.S.C.*
17 *1153(a)), as amended by section 2305(b), is further*
18 *amended to read as follows:*

19 *“(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-*
20 *SORED IMMIGRANTS.—Aliens subject to the worldwide level*
21 *specified in section 201(c) for family-sponsored immigrants*
22 *shall be allotted visas as follows:*

23 *“(1) SONS AND DAUGHTERS OF CITIZENS.—*
24 *Qualified immigrants who are—*

1 “(A) *the unmarried sons or unmarried*
2 *daughters but not the children of citizens of the*
3 *United States shall be allocated visas in a num-*
4 *ber not to exceed 35 percent of the worldwide*
5 *level authorized in section 201(c), plus the sum*
6 *of—*

7 “(i) *the number of visas not required*
8 *for the class specified in paragraph (2) for*
9 *the current fiscal year; and*

10 “(ii) *the number of visas not required*
11 *for the class specified in subparagraph (B);*
12 *or*

13 “(B) *the married sons or married daughters*
14 *of citizens of the United States who are 31 years*
15 *of age or younger at the time of filing a petition*
16 *under section 204 shall be allocated visas in a*
17 *number not to exceed 25 percent of the worldwide*
18 *level authorized in section 201(c), plus the num-*
19 *ber of any visas not required for the class speci-*
20 *fied in subparagraph (A) current fiscal year.*

21 “(2) *SONS AND DAUGHTERS OF PERMANENT*
22 *RESIDENTS.—Qualified immigrants who are the un-*
23 *married sons or unmarried daughters of aliens admit-*
24 *ted for permanent residence shall be allocated visas in*
25 *a number not to exceed 40 percent of the worldwide*

1 *level authorized in section 201(c), plus any visas not*
2 *required for the class specified in paragraph (1)(A).”.*

3 (2) *CONFORMING AMENDMENTS.—*

4 (A) *PROCEDURE FOR GRANTING IMMIGRANT*
5 *STATUS.—Section 204(f)(1) (8 U.S.C. 1154(f)(1))*
6 *is amended by striking “section 201(b),*
7 *203(a)(1), or 203(a)(3),” and inserting “section*
8 *201(b) or subparagraph (A) or (B) of section*
9 *203(a)(1)”.*

10 (B) *AUTOMATIC CONVERSION.—For the pur-*
11 *poses of any petition pending or approved based*
12 *on a relationship described—*

13 (i) *in subparagraph (A) of section*
14 *203(a)(1) of the Immigration and Nation-*
15 *ality Act (8 U.S.C. 1153(a)(1)), as amended*
16 *by paragraph (1), and notwithstanding the*
17 *age of the alien, such a petition shall be*
18 *deemed reclassified as a petition based on a*
19 *relationship described in subparagraph (B)*
20 *of such section 203(a)(1) upon the marriage*
21 *of such alien; or*

22 (ii) *in subparagraph (B) of such sec-*
23 *tion 203(a)(1), such a petition shall be*
24 *deemed reclassified as a petition based on a*
25 *relationship described in subparagraph (A)*

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1 of such section 203(a)(1) upon the legal ter-
2 mination of marriage or death of such
3 alien's spouse.

4 (3) *EFFECTIVE DATE.*—*The amendments made*
5 *by this subsection shall take effect on the first day of*
6 *the first fiscal year that begins at least 18 months fol-*
7 *lowing the date of the enactment of this Act.*

8 (b) *PREFERENCE ALLOCATION FOR EMPLOYMENT-*
9 *BASED IMMIGRANTS.*—

10 (1) *IN GENERAL.*—*Section 201(b)(1) (8 U.S.C.*
11 *1151(b)(1)), as amended by sections 2103(c) and*
12 *2212(d), is further amended by adding at the end the*
13 *following:*

14 “*(H) Derivative beneficiaries as described*
15 *in section 203(d) of employment-based immi-*
16 *grants under section 203(b).*

17 “*(I) Aliens with extraordinary ability in*
18 *the sciences, arts, education, business, or athletics*
19 *which has been demonstrated by sustained na-*
20 *tional or international acclaim, if, with respect*
21 *to any such alien—*

22 “*(i) the achievements of such alien*
23 *have been recognized in the field through ex-*
24 *tensive documentation;*

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1 *cation, or a governmental research or-*
2 *ganization, to conduct research in the*
3 *area; or*

4 *“(III) for employment in a com-*
5 *parable position to conduct research in*
6 *the area with a department, division,*
7 *or institute of a private employer, if*
8 *the department, division, or institute*
9 *employs at least 3 persons full-time in*
10 *research activities and has achieved*
11 *documented accomplishments in an*
12 *academic field.*

13 *“(K) Aliens who are multinational execu-*
14 *tives and managers if, with respect to any such*
15 *alien—*

16 *“(i) in the 3 years preceding the time*
17 *of the alien’s application for classification*
18 *and admission into the United States under*
19 *this subparagraph, the alien has been em-*
20 *ployed for at least 1 year by a firm or cor-*
21 *poration or other legal entity or an affiliate*
22 *or subsidiary thereof; and*

23 *“(ii) the alien seeks to enter the United*
24 *States in order to continue to render serv-*
25 *ices to the same employer or to a subsidiary*

1 *or affiliate thereof in a capacity that is*
2 *managerial or executive.*

3 *“(L) Aliens who have earned a doctorate de-*
4 *gree from an institution of higher education in*
5 *the United States or the foreign equivalent.*

6 *“(M) Alien physicians who have completed*
7 *the foreign residency requirements under section*
8 *212(e) or obtained a waiver of these requirements*
9 *or an exemption requested by an interested State*
10 *agency or by an interested Federal agency under*
11 *section 214(l), including those alien physicians*
12 *who completed such service before the date of the*
13 *enactment of the Border Security, Economic Op-*
14 *portunity, and Immigration Modernization Act.*

15 *“(N) ADVANCED DEGREES IN A STEM*
16 *FIELD.—*

17 *“(i) IN GENERAL.—An immigrant*
18 *who—*

19 *“(I) has earned a master’s or*
20 *higher degree in a field of science, tech-*
21 *nology, engineering, or mathematics*
22 *included in the Department of Edu-*
23 *cation’s Classification of Instructional*
24 *Programs taxonomy within the sum-*
25 *mary groups of computer and informa-*

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1 *section 102(b) of such Act (20*
2 *U.S.C. 1002(b));*

3 *“(bb) was classified by the*
4 *Carnegie Foundation for the Ad-*
5 *vancement of Teaching on Janu-*
6 *ary 1, 2012, as a doctorate-grant-*
7 *ing university with a very high or*
8 *high level of research activity or*
9 *classified by the National Science*
10 *Foundation after the date of en-*
11 *actment of this subparagraph,*
12 *pursuant to an application by the*
13 *institution, as having equivalent*
14 *research activity to those institu-*
15 *tions that had been classified by*
16 *the Carnegie Foundation as being*
17 *doctorate-granting universities*
18 *with a very high or high level of*
19 *research activity; and*

20 *“(cc) is accredited by an ac-*
21 *crediting body that is itself ac-*
22 *credited either by the Department*
23 *of Education or by the Council for*
24 *Higher Education Accredita-*
25 *tion.”.*

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1 (2) *EXCEPTION FROM LABOR CERTIFICATION RE-*
2 *QUIREMENT FOR STEM IMMIGRANTS.*—Section
3 *212(a)(5)(D) (8 U.S.C. 1182(a)(5)(D)) is amended to*
4 *read as follows:*

5 “(D) *APPLICATION OF GROUNDS.*—

6 “(i) *IN GENERAL.*—*Except as provided*
7 *in clause (ii), the grounds for inadmis-*
8 *sibility of aliens under subparagraphs (A)*
9 *and (B) shall apply to immigrants seeking*
10 *admission or adjustment of status under*
11 *paragraph (2) or (3) of section 203(b).*

12 “(ii) *SPECIAL RULE FOR STEM IMMI-*
13 *GRANTS.*—*The grounds for inadmissibility*
14 *of aliens under subparagraph (A) shall not*
15 *apply to an immigrant seeking admission*
16 *or adjustment of status under section*
17 *203(b)(2)(B).”.*

18 (c) *TECHNICAL AND CONFORMING AMENDMENTS.*—

19 (1) *TREATMENT OF DERIVATIVE FAMILY MEM-*
20 *BERS.*—Section 203(d) (8 U.S.C. 1153(d)) is amend-
21 *ed to read as follows:*

22 “(d) *TREATMENT OF FAMILY MEMBERS.*—*If accom-*
23 *panying or following to join a spouse or parent issued a*
24 *visa under subsection (a), (b), or (c), subparagraph (I), (J),*
25 *(K), (L), or (M) of section 201(b)(1), or section 201(b)(2),*

1 *a spouse or child (as defined in subparagraph (A), (B), (C),*
2 *(D), or (E) of section 101(b)(1)) shall be entitled to the same*
3 *immigrant status and the same order of consideration pro-*
4 *vided in the respective provision.”.*

5 (2) *ALIENS WHO ARE PRIORITY WORKERS OR*
6 *MEMBERS OF THE PROFESSIONS HOLDING ADVANCED*
7 *DEGREES.—Section 203(b) (8 U.S.C. 1153(b)) is*
8 *amended—*

9 (A) *in the matter preceding paragraph (1),*
10 *by striking “Aliens” and inserting “Other than*
11 *aliens described in paragraph (1) or (2)(B),*
12 *aliens”;*

13 (B) *in paragraph (1), by striking the mat-*
14 *ter preceding subparagraph (A) and inserting*
15 *“Aliens described in any of the following sub-*
16 *paragraphs may be admitted to the United*
17 *States without respect to the worldwide level*
18 *specified in section 201(d)”;* and

19 (C) *by amending paragraph (2) to read as*
20 *follows:*

21 “(2) *ALIENS WHO ARE MEMBERS OF PROFES-*
22 *SIONS HOLDING ADVANCED DEGREES OR PROSPEC-*
23 *TIVE EMPLOYEES OF NATIONAL SECURITY FACILI-*
24 *TIES.—*

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1 “(A) *IN GENERAL.*—*Visas shall be made*
2 *available, in a number not to exceed 40 percent*
3 *of the worldwide level authorized in section*
4 *201(d), plus any visas not required for the class-*
5 *es specified in paragraph (5) to qualified immi-*
6 *grants who are either of the following:*

7 “(i) *Members of the professions holding*
8 *advanced degrees or their equivalent whose*
9 *services in the sciences, arts, professions, or*
10 *business are sought by an employer in the*
11 *United States, including alien physicians*
12 *holding foreign medical degrees that have*
13 *been deemed sufficient for acceptance by an*
14 *accredited United States medical residency*
15 *or fellowship program.*

16 “(ii) *Prospective employees, in a re-*
17 *search capacity, of Federal national secu-*
18 *rity, science, and technology laboratories,*
19 *centers, and agencies, if such immigrants*
20 *have been lawfully present in the United*
21 *States for two years prior to employment*
22 *(unless the Secretary of Homeland Security*
23 *determines, including upon request of the*
24 *prospective laboratory, center, or agency,*

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1 *that exceptional circumstances exist justifying waiver of the presence requirement).*

2
3 “(B) *WAIVER OF JOB OFFER.*—

4 “(i) *NATIONAL INTEREST WAIVER.*—
5 *Subject to clause (ii), the Secretary of*
6 *Homeland Security may, if the Secretary*
7 *deems it to be in the national interest,*
8 *waive the requirements of subparagraph (A)*
9 *that an alien’s services in the sciences, arts,*
10 *professions, or business be sought by an em-*
11 *ployer in the United States.*

12 “(ii) *PHYSICIANS WORKING IN SHORT-*
13 *AGE AREAS OR VETERANS FACILITIES.*—

14 “(I) *IN GENERAL.*—*The Secretary*
15 *shall grant a national interest waiver*
16 *pursuant to clause (i) on behalf of any*
17 *alien physician with respect to whom a*
18 *petition for preference classification*
19 *has been filed under subparagraph (A)*
20 *if—*

21 “(aa) *the alien physician*
22 *agrees to work on a full-time*
23 *basis practicing primary care,*
24 *specialty medicine, or a combina-*
25 *tion thereof, in an area or areas*

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1 *designated by the Secretary of*
2 *Health and Human Services as*
3 *having a shortage of health care*
4 *professionals or at a health care*
5 *facility under the jurisdiction of*
6 *the Secretary of Veterans Affairs;*
7 *or*

8 *“(bb) the alien physician is*
9 *pursuing such waiver based upon*
10 *service at a facility or facilities*
11 *that serve patients who reside in a*
12 *geographic area or areas des-*
13 *ignated by the Secretary of Health*
14 *and Human Services as having a*
15 *shortage of health care profes-*
16 *sionals (without regard to whether*
17 *such facility or facilities are lo-*
18 *cated within such an area) and a*
19 *Federal agency or a local, county,*
20 *regional, or State department of*
21 *public health determines that the*
22 *alien physician’s work at such fa-*
23 *ility was or will be in the public*
24 *interest.*

25 *“(II) PROHIBITION.—*

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1 “(aa) No permanent resident
2 visa may be issued to an alien
3 physician described in subclause
4 (I) by the Secretary of State
5 under section 204(b), and the Sec-
6 retary of Homeland Security may
7 not adjust the status of such an
8 alien physician from that of a
9 nonimmigrant alien to that of a
10 permanent resident alien under
11 section 245, until such time as the
12 alien has worked full time as a
13 physician for an aggregate of 5
14 years (not including the time
15 served in the status of an alien
16 described in section
17 101(a)(15)(J)), in an area or
18 areas designated by the Secretary
19 of Health and Human Services as
20 having a shortage of health care
21 professionals or at a health care
22 facility under the jurisdiction of
23 the Secretary of Veterans Affairs,
24 or at a facility or facilities meet-

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1 *ing the requirements of subclause*
2 *(I)(bb).*

3 *“(bb) The 5-year service re-*
4 *quirement of item (aa) shall be*
5 *counted from the date the alien*
6 *physician begins work in the*
7 *shortage area in any legal status*
8 *and not the date an immigrant*
9 *visa petition is filed or approved.*
10 *Such service shall be aggregated*
11 *without regard to when such serv-*
12 *ice began and without regard to*
13 *whether such service began during*
14 *or in conjunction with a course of*
15 *graduate medical education.*

16 *“(cc) An alien physician*
17 *shall not be required to submit an*
18 *employment contract with a term*
19 *exceeding the balance of the 5-year*
20 *commitment yet to be served, nor*
21 *an employment contract dated*
22 *within a minimum time period*
23 *prior to filing of a visa petition*
24 *pursuant to this subsection.*

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1 “(dd) *An alien physician*
2 *shall not be required to file addi-*
3 *tional immigrant visa petitions*
4 *upon a change of work location*
5 *from the location approved in the*
6 *original national interest immi-*
7 *grant petition.*

8 “(III) *STATUTORY CONSTRUC-*
9 *TION.—Nothing in this subparagraph*
10 *may be construed to prevent the filing*
11 *of a petition with the Secretary of*
12 *Homeland Security for classification*
13 *under section 204(a), by an alien phy-*
14 *sician described in subclause (I) prior*
15 *to the date by which such alien physi-*
16 *cian has completed the service de-*
17 *scribed in subclause (II) or in section*
18 *214(l).*

19 “(C) *GUIDANCE AND RULES.—The Sec-*
20 *retary may prescribe such policy guidance and*
21 *rules as the Secretary considers appropriate for*
22 *purposes of subparagraph (A) to ensure national*
23 *security and promote the interests and competi-*
24 *tiveness of the United States. Such rules shall in-*
25 *clude a definition of the term ‘Federal national*

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1 *security, science, and technology laboratories,*
2 *centers, and agencies’ for purposes of clause (ii)*
3 *of subparagraph (A), which shall include the fol-*
4 *lowing:*

5 “(i) *The national security, science, and*
6 *technology laboratories, centers, and agen-*
7 *cies of the Department of Defense, the De-*
8 *partment of Energy, the Department of*
9 *Homeland Security, the elements of the in-*
10 *telligence community (as that term is de-*
11 *finied in section 4(3) of the National Secu-*
12 *rity Act of 1947), and any other depart-*
13 *ment or agency of the Federal Government*
14 *that conducts or funds research and develop-*
15 *ment in the essential national interest.*

16 “(ii) *Federally funded research and de-*
17 *velopment centers (FFRDCs) that are pri-*
18 *marily supported by a department or agen-*
19 *cy of the Federal Government specified in*
20 *clause (i).”.*

21 (3) *SKILLED WORKERS, PROFESSIONALS, AND*
22 *OTHER WORKERS.—*

23 (A) *IN GENERAL.—Section 203(b)(3)(A) (8*
24 *U.S.C. 1153(b)(3)(A)) is amended by striking*
25 *“in a number not to exceed 28.6 percent of such*

1 *worldwide level, plus any visas not required for*
2 *the classes specified in paragraphs (1) and (2),”*
3 *and inserting “in a number not to exceed 40 per-*
4 *cent of the worldwide level authorized in section*
5 *201(d), plus any visas not required for the class*
6 *specified in paragraph (2),”.*

7 (B) *MEDICAL LICENSE REQUIREMENTS.—*
8 *Section 214(i)(2)(A) (8 U.S.C. 1184(i)(2)(A)) is*
9 *amended by adding at the end “including in the*
10 *case of a medical doctor, the licensure required*
11 *to practice medicine in the United States,”.*

12 (C) *REPEAL OF LIMITATION ON OTHER*
13 *WORKERS.—Section 203(b)(3) (8 U.S.C.*
14 *1153(b)(3)) is amended—*

15 (i) *by striking subparagraph (B); and*
16 (ii) *redesignated subparagraph (C) as*
17 *subparagraph (B).*

18 (4) *CERTAIN SPECIAL IMMIGRANTS.—Section*
19 *203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by strik-*
20 *ing “in a number not to exceed 7.1 percent of such*
21 *worldwide level,” and inserting “in a number not to*
22 *exceed 10 percent of the worldwide level authorized in*
23 *section 201(d), plus any visas not required for the*
24 *class specified in paragraph (3),”.*

1 (5) *EMPLOYMENT CREATION.—Section*
2 203(b)(5)(A) (8 U.S.C. 1153(b)(5)(A)) 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 author-
6 ized in section 201(d), plus any visas not required for
7 the class specified in paragraph (4),”.

8 (d) *NATURALIZATION OF EMPLOYEES OF CERTAIN NA-*
9 *TIONAL SECURITY FACILITIES WITHOUT REGARD TO RESI-*
10 *DENCY REQUIREMENTS.—Section 316 (8 U.S.C. 1427) is*
11 *amended by adding at the end the following:*

12 “(g)(1) *Any person who, while an alien or a noncitizen*
13 *national of the United States, has been employed in a re-*
14 *search capacity at a Federal national security, science, and*
15 *technology laboratory, center, or agency (as defined pursu-*
16 *ant to section 203(b)(2)(C)) for a period or periods aggre-*
17 *gating one year or more may, in the discretion of the Sec-*
18 *retary, be naturalized without regard to the residence re-*
19 *quirements of this section if the person—*

20 “(A) *has complied with all requirements as de-*
21 *termined by the Secretary of Homeland Security, the*
22 *Secretary of Defense, the Secretary of Energy, or the*
23 *head of a petitioning department or agency of the*
24 *Federal Government, including contractual require-*
25 *ments to maintain employment in a research capac-*

1 *ity with a Federal national security, science, and*
2 *technology laboratory, center, or agency for a period*
3 *not to exceed five years; and*

4 *“(B) has favorably completed and adjudicated a*
5 *background investigation at the appropriate level,*
6 *from the employing department or agency of the Fed-*
7 *eral Government within the last five years.*

8 *“(2) The number of aliens or noncitizen nationals nat-*
9 *uralized in any fiscal year under this subsection shall not*
10 *exceed a number as defined by the Secretary of Homeland*
11 *Security, in consultation with the head of the petitioning*
12 *department or agency of the Federal Government.”.*

13 **SEC. 2308. INCLUSION OF COMMUNITIES ADVERSELY AF-**
14 **FFECTED BY A RECOMMENDATION OF THE DE-**
15 **FENSE BASE CLOSURE AND REALIGNMENT**
16 **COMMISSION AS TARGETED EMPLOYMENT**
17 **AREAS.**

18 *(a) IN GENERAL.—Section 203(b)(5)(B)(ii) (8 U.S.C.*
19 *1153(b)(5)(B)(ii)) is amended by inserting “, any commu-*
20 *nity adversely affected by a recommendation by the Defense*
21 *Base Closure and Realignment Commission,” after “rural*
22 *area”.*

23 *(b) REGULATIONS.—The Secretary, in consultation*
24 *with the Secretary of Defense, shall implement the amend-*

1 *ment made by subsection (a) through appropriate regula-*
2 *tions.*

3 **SEC. 2309. V NONIMMIGRANT VISAS.**

4 *(a) NONIMMIGRANT ELIGIBILITY.—Subparagraph (V)*
5 *of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended to*
6 *read as follows:*

7 *“(V)(i) subject to section 214(q)(1) and sec-*
8 *tion 212(a)(4), an alien who is the beneficiary of*
9 *an approved petition under section 203(a) as—*

10 *“(I) the unmarried son or unmarried*
11 *daughter of a citizen of the United States;*

12 *“(II) the unmarried son or unmarried*
13 *daughter of an alien lawfully admitted for*
14 *permanent residence; or*

15 *“(III) the married son or married*
16 *daughter of a citizen of the United States*
17 *and who is 31 years of age or younger; or*

18 *“(ii) subject to section 214(q)(2), an alien*
19 *who is—*

20 *“(I) the sibling of a citizen of the*
21 *United States; or*

22 *“(II) the married son or married*
23 *daughter of a citizen of the United States*
24 *and who is older than 31 years of age;”.*

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1 **(b) EMPLOYMENT AND PERIOD OF ADMISSION OF NON-**
2 **IMMIGRANTS DESCRIBED IN SECTION 101(A)(15)(V).**—*Sec-*
3 *tion 214(q) (8 U.S.C. 1184(q)) is amended to read as fol-*
4 *lows:*

5 **“(q) NONIMMIGRANTS DESCRIBED IN SECTION**
6 **101(A)(15)(V).**—

7 **“(1) CERTAIN SONS AND DAUGHTERS.**—

8 **“(A) EMPLOYMENT AUTHORIZATION.**—*The*
9 *Secretary shall—*

10 **“(i) authorize a nonimmigrant admit-**
11 *ted pursuant to section 101(a)(15)(V)(i) to*
12 *engage in employment in the United States*
13 *during the period of such nonimmigrant’s*
14 *authorized admission; and*

15 **“(ii) provide such a nonimmigrant**
16 *with an ‘employment authorized’ endorse-*
17 *ment or other appropriate document signi-*
18 *fying authorization of employment.*

19 **“(B) TERMINATION OF ADMISSION.**—*The*
20 *period of authorized admission for such a non-*
21 *immigrant shall terminate 30 days after the date*
22 *on which—*

23 **“(i) such nonimmigrant’s application**
24 *for an immigrant visa pursuant to the ap-*

1 *proval of a petition under subsection (a) or*
2 *(c) of section 203 is denied; or*

3 “*(ii) such nonimmigrant’s application*
4 *for adjustment of status under section 245*
5 *pursuant to the approval of such a petition*
6 *is denied.*”

7 “(2) *SIBLINGS AND SONS AND DAUGHTERS OF*
8 *CITIZENS.—*

9 “*(A) EMPLOYMENT AUTHORIZATION.—The*
10 *Secretary may not authorize a nonimmigrant*
11 *admitted pursuant to section 101(a)(15)(V)(ii) to*
12 *engage in employment in the United States.*”

13 “*(B) PERIOD OF ADMISSION.—The period of*
14 *authorized admission as such a nonimmigrant*
15 *may not exceed 60 days per fiscal year.*”

16 “*(C) TREATMENT OF PERIOD OF ADMIS-*
17 *SION.—An alien admitted under section*
18 *101(a)(15)(V) may not receive an allocation of*
19 *points pursuant to section 203(c) for residence in*
20 *the United States while admitted as such a non-*
21 *immigrant.*”

22 “(c) *PUBLIC BENEFITS.—A noncitizen who is lawfully*
23 *present in the United States pursuant to section*
24 *101(a)(15)(V) of the Immigration and Nationality Act (8*
25 *U.S.C. 1101(a)(15)(V)) is not eligible for any means-tested*

1 *public benefits (as such term is defined and implemented*
2 *in section 403 of the Personal Responsibility and Work Op-*
3 *portunity Reconciliation Act of 1996 (8 U.S.C. 1613)). A*
4 *noncitizen admitted under this section—*

5 *(1) is not entitled to the premium assistance tax*
6 *credit authorized under section 36B of the Internal*
7 *Revenue Code of 1986 for his or her coverage;*

8 *(2) shall be subject to the rules applicable to in-*
9 *dividuals not lawfully present that are set forth in*
10 *subsection (e) of such section;*

11 *(3) shall be subject to the rules applicable to in-*
12 *dividuals not lawfully present that are set forth in*
13 *section 1402(e) of the Patient Protection and Afford-*
14 *able Care Act (42 U.S.C. 18071(e)); and*

15 *(4) shall be subject to the rules applicable to in-*
16 *dividuals not lawfully present set forth in section*
17 *5000A(d)(3) of the Internal Revenue Code of 1986.*

18 *(d) EFFECTIVE DATE.—The amendments made by this*
19 *section shall take effect on the first day of the first fiscal*
20 *year beginning after the date of the enactment of this Act.*

21 **SEC. 2310. FIANCÉE AND FIANCÉ CHILD STATUS PROTEC-**
22 **TION.**

23 *(a) DEFINITION.—Section 101(a)(15)(K) (8 U.S.C.*
24 *1101(a)(15)(K), as amended by section 2305(d)(6)(B)(i)(I),*
25 *is further amended—*

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1 (1) *in clause (i), by inserting “or of an alien*
2 *lawfully admitted for permanent residence” after*
3 *“204(a)(1)(H)(i)”;*

4 (2) *in clause (ii), by inserting “or of an alien*
5 *lawfully admitted for permanent residence” after*
6 *“204(a)(1)(H)(i)”;* and

7 (3) *in clause (iii), by striking the semicolon and*
8 *inserting “, provided that a determination of the age*
9 *of such child is made using the age of the alien on*
10 *the date on which the fiancé, fiancée, or immigrant*
11 *visa petition is filed with the Secretary of Homeland*
12 *Security to classify the alien’s parent as the fiancée*
13 *or fiancé of a United States citizen or of an alien*
14 *lawfully admitted for permanent residence (in the*
15 *case of an alien parent described in clause (i)) or as*
16 *the spouse of a citizen of the United States or of an*
17 *alien lawfully admitted to permanent residence under*
18 *section 201(b)(2)(A) (in the case of an alien parent*
19 *described in clause (ii));”.*

20 (b) *ADJUSTMENT OF STATUS AUTHORIZED.—Section*
21 *214(d) (8 U.S.C. 1184(d)) is amended—*

22 (1) *by redesignating paragraphs (2) and (3) as*
23 *paragraphs (3) and (4), respectively; and*

24 (2) *in paragraph (1), by striking “In the event”*
25 *and all that follows through the end; and*

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1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2)(A) If an alien does not marry the petitioner
4 under paragraph (1) within 3 months after the alien and
5 the alien’s children are admitted into the United States,
6 the visa previously issued under the provisions of section
7 1101(a)(15)(K)(i) shall automatically expire and such alien
8 and children shall be required to depart from the United
9 States. If such aliens fail to depart from the United States,
10 they shall be placed in proceedings in accordance with sec-
11 tions 240 and 241.

12 “(B) Subject to subparagraphs (C) and (D), if an alien
13 marries the petitioner described in section 101(a)(15)(K)(i)
14 within 90 days after the alien is admitted into the United
15 States, the Secretary or the Attorney General, subject to the
16 provisions of section 245(d), may adjust the status of the
17 alien, and any children accompanying or following to join
18 the alien, to that of an alien lawfully admitted for perma-
19 nent residence on a conditional basis under section 216 if
20 the alien and any such children apply for such adjustment
21 and are not determined to be inadmissible to the United
22 States. If the alien does not apply for such adjustment with-
23 in 6 months after the marriage, the visa issued under the
24 provisions of section 1101(a)(15)(K) shall automatically ex-
25 pire.

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1 “(C) Paragraphs (5) and (7)(A) of section 212(a) shall
2 not apply to an alien who is eligible to apply for adjust-
3 ment of the alien’s status to an alien lawfully admitted for
4 permanent residence under this section.

5 “(D) An alien eligible for a waiver of inadmissibility
6 as otherwise authorized under this Act or the Border Secu-
7 rity, Economic Opportunity, and Immigration Moderniza-
8 tion Act shall be permitted to apply for adjustment of the
9 alien’s status to that of an alien lawfully admitted for per-
10 manent residence under this section.”.

11 (c) *AGE DETERMINATION*.—Section 245(d) (8 U.S.C.
12 1255(d)) is amended—

13 (1) by striking “The Attorney General” and in-
14 serting “(1) The Secretary of Homeland Security”;

15 (2) in paragraph (1), as redesignated, by strik-
16 ing “Attorney General” and inserting “Secretary”;
17 and

18 (3) by adding at the end the following:

19 “(2) A determination of the age of an alien admitted
20 to the United States under section 101(a)(15)(K)(iii) shall
21 be made, for purposes of adjustment to the status of an alien
22 lawfully admitted for permanent residence on a conditional
23 basis under section 216, using the age of the alien on the
24 date on which the fiancé, fiancée, or immigrant visa peti-
25 tion was filed with the Secretary of Homeland Security to

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1 *classify the alien’s parent as the fiancée or fiancé of a*
2 *United States citizen or of an alien lawfully admitted to*
3 *permanent residence (in the case of an alien parent admit-*
4 *ted to the United States under section 101(a)(15)(K)(i)) or*
5 *as the spouse of a United States citizen or of an alien law-*
6 *fully admitted to permanent residence under section*
7 *201(b)(2)(A) (in the case of an alien parent admitted to*
8 *the United States under section 101(a)(15)(K)(i)).”.*

9 *(d) APPLICABILITY.—The amendments made by this*
10 *section shall apply to all petitions or applications described*
11 *in such amendments that are pending as of the date of the*
12 *enactment of the Border Security, Economic Opportunity,*
13 *and Immigration Modernization Act.*

14 *(e) TECHNICAL AND CONFORMING AMENDMENTS.—*

15 *(1) DEFINITIONS.—Section 101(a)(15)(K) (8*
16 *U.S.C. 1101(a)(15)(K)), as amended by subsection*
17 *(a), is further amended—*

18 *(A) in clause (ii), by striking “section*
19 *201(b)(2)(A)(i)” and inserting “section*
20 *201(b)(2)”;* and

21 *(B) in clause (iii), by striking “section*
22 *201(b)(2)(A)(i)” and inserting “section*
23 *201(b)(2)”.*

24 *(2) AGE DETERMINATION.—Paragraph (2) of sec-*
25 *tion 245(d) (8 U.S.C. 1255(d)), as added by sub-*

1 (2) *in subparagraph (F)—*

2 (A) *by striking “(F)(i)” and inserting*
3 *“(F)”;*

4 (B) *by striking “sixteen” and inserting*
5 *“18”;*

6 (C) *by striking “Attorney General” and in-*
7 *serting “Secretary of Homeland Security”;* and

8 (D) *by striking clause (ii); and*

9 (3) *in subparagraph (G), by striking “16” and*
10 *inserting “18”.*

11 **SEC. 2313. RELIEF FOR ORPHANS, WIDOWS, AND WIDOWERS.**

12 (a) *IN GENERAL.—*

13 (1) *SPECIAL RULE FOR ORPHANS AND*
14 *SPOUSES.—In applying clauses (iii) and (iv) of sec-*
15 *tion 201(b)(2)(B) of the Immigration and Nationality*
16 *Act, as added by section 2305(a) of this Act, to an*
17 *alien whose citizen or lawful permanent resident rel-*
18 *ative died before the date of the enactment of this Act,*
19 *the alien relative may file the classification petition*
20 *under section 204(a)(1)(A)(ii) of the Immigration*
21 *and Nationality Act not later than 2 years after the*
22 *date of the enactment of this Act.*

23 (2) *ELIGIBILITY FOR PAROLE.—If an alien was*
24 *excluded, deported, removed, or departed voluntarily*
25 *before the date of the enactment of this Act based sole-*

1 *ly upon the alien's lack of classification as an imme-*
2 *diate relative (as defined in section 201(b)(2)(B)(iv)*
3 *of the Immigration and Nationality Act, as amended*
4 *by section 2305(a) of this Act) due to the death of*
5 *such citizen or resident—*

6 *(A) such alien shall be eligible for parole*
7 *into the United States pursuant to the Sec-*
8 *retary's discretionary authority under section*
9 *212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and*

10 *(B) such alien's application for adjustment*
11 *of status shall be considered by the Secretary*
12 *notwithstanding section 212(a)(9) of such Act (8*
13 *U.S.C. 1182(a)(9)).*

14 *(3) ELIGIBILITY FOR PAROLE.—If an alien de-*
15 *scribed in section 204(l) of the Immigration and Na-*
16 *tionality Act (8 U.S.C. 1154(l)) was excluded, de-*
17 *ported, removed, or departed voluntarily before the*
18 *date of the enactment of this Act—*

19 *(A) such alien shall be eligible for parole*
20 *into the United States pursuant to the Sec-*
21 *retary's discretionary authority under section*
22 *212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and*

23 *(B) such alien's application for adjustment*
24 *of status shall be considered by the Secretary*

1 *notwithstanding section 212(a)(9) of such Act (8*
2 *U.S.C. 1182(a)(9)).*

3 *(b) PROCESSING OF IMMIGRANT VISAS AND DERIVA-*
4 *TIVE PETITIONS.—*

5 *(1) IN GENERAL.—Section 204(b) (8 U.S.C.*
6 *1154(b)) is amended—*

7 *(A) by striking “After an investigation”*
8 *and inserting “(1) After an investigation”; and*

9 *(B) by adding at the end the following:*

10 *“(2)(A) Any alien described in subparagraph (B)*
11 *whose qualifying relative died before the completion of im-*
12 *migrant visa processing may have an immigrant visa ap-*
13 *plication adjudicated as if such death had not occurred. An*
14 *immigrant visa issued before the death of the qualifying rel-*
15 *ative shall remain valid after such death.*

16 *“(B) An alien described in this subparagraph is an*
17 *alien who—*

18 *“(i) is an immediate relative (as described in*
19 *section 201(b)(2)(B));*

20 *“(ii) is a family-sponsored immigrant (as de-*
21 *scribed in subsection (a) or (d) of section 203);*

22 *“(iii) is a derivative beneficiary of an employ-*
23 *ment-based immigrant under section 203(b) (as de-*
24 *scribed in section 203(d)); or*

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1 “(iv) is the spouse or child of a refugee (as de-
2 scribed in section 207(c)(2)) or an asylee (as de-
3 scribed in section 208(b)(3)).”.

4 (2) *TRANSITION PERIOD.*—

5 (A) *IN GENERAL.*—Notwithstanding a de-
6 nial or revocation of an application for an im-
7 migrant visa for an alien due to the death of the
8 qualifying relative before the date of the enact-
9 ment of this Act, such application may be re-
10 newed by the alien through a motion to reopen,
11 without fee.

12 (B) *INAPPLICABILITY OF BARS TO ENTRY.*—
13 Notwithstanding section 212(a)(9) of the *Immi-*
14 *gration and Nationality Act* (8 U.S.C.
15 1182(a)(9)), an alien’s application for an immi-
16 grant visa shall be considered if the alien was ex-
17 cluded, deported, removed, or departed volun-
18 tarily before the date of the enactment of this
19 Act.

20 (c) *NATURALIZATION.*—Section 319(a) (8 U.S.C.
21 1430(a)) is amended by striking “States,” and inserting
22 “States (or if the spouse is deceased, the spouse was a citizen
23 of the United States),”.

24 (d) *WAIVERS OF INADMISSIBILITY.*—Section 212 (8
25 U.S.C. 1182) is amended by adding at the end the following:

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1 “(v) *CONTINUED WAIVER ELIGIBILITY FOR WIDOWS,*
2 *WIDOWERS, AND ORPHANS.*—*In the case of an alien who*
3 *would have been statutorily eligible for any waiver of inad-*
4 *missibility under this Act but for the death of a qualifying*
5 *relative, the eligibility of such alien shall be preserved as*
6 *if the death had not occurred and the death of the qualifying*
7 *relative shall be the functional equivalent of hardship for*
8 *purposes of any waiver of inadmissibility which requires*
9 *a showing of hardship.*”.

10 (e) *SURVIVING RELATIVE CONSIDERATION FOR CER-*
11 *TAIN PETITIONS AND APPLICATIONS.*—*Section 204(l)(1) (8*
12 *U.S.C. 1154(l)(1)) is amended—*

13 (1) *by striking “who resided in the United States*
14 *at the time of the death of the qualifying relative and*
15 *who continues to reside in the United States”;* and

16 (2) *by striking “related applications,” and in-*
17 *serting “related applications (including affidavits of*
18 *support),”.*

19 (f) *FAMILY-SPONSORED IMMIGRANTS.*—*Section*
20 *212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)), as amended by*
21 *section 2305(d)(6)(B)(iii), is further amended by adding at*
22 *the end the following:*

23 “(III) *the status as a surviving*
24 *relative under 204(l); or*”.

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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 of*
9 *an alien subject to removal, deportation, or inad-*
10 *missibility, the immigration judge may exercise*
11 *discretion to decline to order the alien removable,*
12 *deportable, or inadmissible from the United*
13 *States and terminate proceedings if the judge de-*
14 *termines that such removal, deportation, or in-*
15 *admissibility is against the public interest or*
16 *would result in hardship to the alien’s United*
17 *States citizen or lawful permanent resident par-*
18 *ent, spouse, or child, or the judge determines the*
19 *alien is prima facie eligible for naturalization*
20 *except that this subparagraph shall not apply to*
21 *an alien whom the judge determines—*

22 “(i) *is inadmissible or deportable*
23 *under—*

24 “(I) *subparagraph (B), (C),*
25 *(D)(ii), (E), (H), (I), or (J) of section*
26 *212(a)(2);*

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1 “(II) section 212(a)(3);
2 “(III) subparagraph (A), (C), or
3 (D) of section 212(a)(10); or
4 “(IV) paragraph (2)(A)(ii),
5 (2)(A)(v), (2)(F), (4), or (6) of section
6 237(a); or
7 “(ii) has—
8 “(I) engaged in conduct described
9 in paragraph (8) or (9) of section 103
10 of the Trafficking Victims Protection
11 Act of 2000 (22 U.S.C. 7102); or
12 “(II) a felony conviction described
13 in section 101(a)(43) that would have
14 been classified as an aggravated felony
15 at the time of conviction.”.

16 (b) *SECRETARY’S DISCRETION.*—Section 212 (8 U.S.C.
17 1182), as amended by section 2313(d), is further amended
18 by adding at the end the following:

19 “(w) *SECRETARY’S DISCRETION.*—In the case of an
20 alien who is inadmissible under this section or deportable
21 under section 237, the Secretary of Homeland Security may
22 exercise discretion to waive a ground of inadmissibility or
23 deportability if the Secretary determines that such removal
24 or refusal of admission is against the public interest or
25 would result in hardship to the alien’s United States citizen

1 *or permanent resident parent, spouse, or child. This sub-*
2 *section shall not apply to an alien whom the Secretary de-*
3 *termines—*

4 “(1) *is inadmissible or deportable under—*

5 “(A) *subparagraph (B), (C), (D)(ii), (E),*
6 *(H), (I), or (J) of subsection (a)(2);*

7 “(B) *subsection (a)(3);*

8 “(C) *subparagraph (A), (C), or (D) of sub-*
9 *section (a)(10);*

10 “(D) *paragraphs (2)(A)(ii), (2)(A)(v),*
11 *(2)(F), or (6) of section 237(a); or*

12 “(E) *section 240(c)(4)(D)(ii)(II); or*

13 “(2) *has—*

14 “(A) *engaged in conduct described in para-*
15 *graph (8) or (9) of section 103 of the Trafficking*
16 *Victims Protection Act of 2000 (22 U.S.C. 7102);*

17 *or*

18 “(B) *a felony conviction described in section*
19 *101(a)(43) that would have been classified as an*
20 *aggravated felony at the time of conviction.”.*

21 (c) *REINSTATEMENT OF REMOVAL ORDERS.—Section*
22 *241(a)(5) (8 U.S.C. 1231(a)(5)) is amended by striking the*
23 *period at the end and inserting “, unless the alien reentered*
24 *prior to attaining the age of 18 years, or reinstatement of*
25 *the prior order of removal would not be in the public inter-*

1 *est or would result in hardship to the alien's United States*
2 *citizen or permanent resident parent, spouse, or child."*

3 **SEC. 2315. WAIVERS OF INADMISSIBILITY.**

4 (a) *ALIENS WHO ENTERED AS CHILDREN.*—Section
5 *212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(iii)) is amended*
6 *by adding at the end the following:*

7 “(VI) *ALIENS WHO ENTERED AS*
8 *CHILDREN.*—Clause (i) shall not apply
9 *to an alien who is the beneficiary of an*
10 *approved petition under 101(a)(15)(H)*
11 *and who has earned a baccalaureate or*
12 *higher degree from a United States in-*
13 *stitution of higher education (as de-*
14 *fined in section 101(a) of the Higher*
15 *Education Act of 1965 (20 U.S.C.*
16 *1001(a)), and had not yet reached the*
17 *age of 16 years at the time of initial*
18 *entry to the United States."*

19 (b) *ALIENS UNLAWFULLY PRESENT.*—Section
20 *212(a)(9)(B)(v) (8 U.S.C. 1181(a)(9)(B)(v) is amended—*

21 (1) *by striking “spouse or son or daughter” and*
22 *inserting “spouse, son, daughter, or parent”;*

23 (2) *by striking “extreme”;* and

24 (3) *by inserting “, child,” after “lawfully resi-*
25 *dent spouse”.*

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1 (c) *PREVIOUS IMMIGRATION VIOLATIONS.*—Section
2 212(a)(9)(C)(i) (8 U.S.C. 1182(a)(9)(C)(i)) is amended by
3 adding “, other than an alien described in clause (iii) or
4 (iv) of subparagraph (B),” after “Any alien”.

5 (d) *FALSE CLAIMS.*—

6 (1) *INADMISSIBILITY.*—

7 (A) *IN GENERAL.*—Section 212(a)(6)(C) (8
8 U.S.C. 1182(a)(6)(C)) is amended to read as fol-
9 lows:

10 “(C) *MISREPRESENTATION.*—

11 “(i) *IN GENERAL.*—Any alien who, by
12 fraud or willfully misrepresenting a mate-
13 rial fact, seeks to procure (or within the last
14 3 years has sought to procure or has pro-
15 cured) a visa, other documentation, or ad-
16 mission into the United States or other ben-
17 efit provided under this Act is inadmissible.

18 “(ii) *FALSELY CLAIMING CITIZEN-*
19 *SHIP.*—

20 “(I) *INADMISSIBILITY.*—Subject to
21 subclause (II), any alien who know-
22 ingly misrepresents himself or herself
23 to be a citizen of the United States for
24 any purpose or benefit under this
25 chapter (including section 274A) or

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1 *any other Federal or State law is in-*
2 *admissible.*

3 “(II) *SPECIAL RULE FOR CHIL-*
4 *DREN.—An alien shall not be inadmis-*
5 *sible under this clause if the misrepre-*
6 *sentation described in subclause (I)*
7 *was made by the alien when the*
8 *alien—*

9 “(aa) *was under 18 years of*
10 *age; or*

11 “(bb) *otherwise lacked the*
12 *mental competence to knowingly*
13 *misrepresent a claim of United*
14 *States citizenship.*

15 “(iii) *WAIVER.—The Attorney General*
16 *or the Secretary of Homeland Security*
17 *may, in the discretion of the Attorney Gen-*
18 *eral or the Secretary, waive the application*
19 *of clause (i) or (ii)(I) for an alien, regard-*
20 *less whether the alien is within or outside*
21 *the United States, if the Attorney General*
22 *or the Secretary finds that a determination*
23 *of inadmissibility to the United States for*
24 *such alien would—*

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1 “(I) result in extreme hardship to
2 the alien or to the alien’s parent,
3 spouse, son, or daughter who is a cit-
4 izen of the United States or an alien
5 lawfully admitted for permanent resi-
6 dence; or

7 “(II) in the case of a VAWA self-
8 petitioner, result in significant hard-
9 ship to the alien or a parent or child
10 of the alien who is a citizen of the
11 United States, an alien lawfully ad-
12 mitted for permanent residence, or a
13 qualified alien (as defined in section
14 431 of the Personal Responsibility and
15 Work Opportunity Reconciliation Act
16 of 1996 (8 U.S.C. 1641(b))).

17 “(iv) LIMITATION ON REVIEW.—No
18 court shall have jurisdiction to review a de-
19 cision or action of the Attorney General or
20 the Secretary regarding a waiver under
21 clause (iii).”.

22 (B) CONFORMING AMENDMENT.—Section
23 212 (8 U.S.C. 1182) is amended by striking sub-
24 section (i).

1 (2) *DEPORTABILITY.—Section 237(a)(3)(D) (8*
2 *U.S.C. 1227(a)(3)(D)) is amended to read as follows:*

3 “*(D) FALSELY CLAIMING CITIZENSHIP.—*
4 *Any alien described in section 212(a)(6)(C)(ii) is*
5 *deportable.*”.

6 **SEC. 2316. CONTINUOUS PRESENCE.**

7 *Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amended*
8 *to read as follows:*

9 “*(1) TERMINATION OF CONTINUOUS PERIOD.—*
10 *For purposes of this section, any period of continuous*
11 *residence or continuous physical presence in the*
12 *United States shall be deemed to end, except in the*
13 *case of an alien who applies for cancellation of re-*
14 *moval under subsection (b)(2), on the date that a no-*
15 *tice to appear is filed with the Executive Office for*
16 *Immigration Review pursuant to section 240.*”.

17 **SEC. 2317. GLOBAL HEALTH CARE COOPERATION.**

18 *(a) TEMPORARY ABSENCE OF ALIENS PROVIDING*
19 *HEALTH CARE IN DEVELOPING COUNTRIES.—*

20 “*(1) IN GENERAL.—Title III (8 U.S.C. 1401 et*
21 *seq.) is amended by inserting after section 317 the fol-*
22 *lowing:*

1 **“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING**
2 **HEALTH CARE IN DEVELOPING COUNTRIES.**

3 *“(a) IN GENERAL.—Notwithstanding any other provi-*
4 *sion of this Act, the Secretary of Homeland Security shall*
5 *allow an eligible alien and the spouse or child of such alien*
6 *to reside in a candidate country during the period that the*
7 *eligible alien is working as a physician or other health care*
8 *worker in a candidate country. During such period the eli-*
9 *gible alien and such spouse or child shall be considered—*

10 *“(1) to be physically present and residing in the*
11 *United States for purposes of naturalization under*
12 *section 316(a); and*

13 *“(2) to meet the continuous residency require-*
14 *ments under section 316(b).*

15 *“(b) DEFINITIONS.—In this section:*

16 *“(1) CANDIDATE COUNTRY.—The term ‘candidate*
17 *country’ means a country that the Secretary of State*
18 *determines to be—*

19 *“(A) eligible for assistance from the Inter-*
20 *national Development Association, in which the*
21 *per capita income of the country is equal to or*
22 *less than the historical ceiling of the Inter-*
23 *national Development Association for the appli-*
24 *cable fiscal year, as defined by the International*
25 *Bank for Reconstruction and Development;*

1 “(B) classified as a lower middle income
2 country in the then most recent edition of the
3 World Development Report for Reconstruction
4 and Development published by the International
5 Bank for Reconstruction and Development and
6 having an income greater than the historical
7 ceiling for International Development Associa-
8 tion eligibility for the applicable fiscal year; or

9 “(C) qualified to be a candidate country
10 due to special circumstances, including natural
11 disasters or public health emergencies.

12 “(2) *ELIGIBLE ALIEN*.—The term ‘eligible alien’
13 means an alien who—

14 “(A) has been lawfully admitted to the
15 United States for permanent residence; and

16 “(B) is a physician or other healthcare
17 worker.

18 “(c) *CONSULTATION*.—The Secretary of Homeland Se-
19 curity shall consult with the Secretary of State in carrying
20 out this section.

21 “(d) *PUBLICATION*.—The Secretary of State shall pub-
22 lish—

23 “(1) not later than 180 days after the date of the
24 enactment of the Border Security, Economic Oppor-

1 *tunity, and Immigration Modernization Act, a list of*
2 *candidate countries;*

3 *“(2) an updated version of the list required by*
4 *paragraph (1) not less often than once each year; and*

5 *“(3) an amendment to the list required by para-*
6 *graph (1) at the time any country qualifies as a can-*
7 *didate country due to special circumstances under*
8 *subsection (b)(1)(C).”.*

9 *(2) RULEMAKING.—*

10 *(A) REQUIREMENT.—Not later than 180*
11 *days after the date of the enactment of this Act,*
12 *the Secretary shall promulgate regulations to*
13 *carry out the amendments made by this sub-*
14 *section.*

15 *(B) CONTENT.—The regulations promul-*
16 *gated pursuant to subparagraph (A) shall—*

17 *(i) permit an eligible alien (as defined*
18 *in section 317A of the Immigration and*
19 *Nationality Act, as added by subsection (a))*
20 *and the spouse or child of the eligible alien*
21 *to reside in a foreign country to work as a*
22 *physician or other healthcare worker as de-*
23 *scribed in subsection (a) of such section*
24 *317A for not less than a 12-month period*
25 *and not more than a 24-month period, and*

1 *shall permit the Secretary to extend such*
2 *period for an additional period not to ex-*
3 *ceed 12 months, if the Secretary determines*
4 *that such country has a continuing need for*
5 *such a physician or other healthcare worker;*

6 *(ii) provide for the issuance of docu-*
7 *ments by the Secretary to such eligible*
8 *alien, and such spouse or child, if appro-*
9 *priate, to demonstrate that such eligible*
10 *alien, and such spouse or child, if appro-*
11 *priate, is authorized to reside in such coun-*
12 *try under such section 317A; and*

13 *(iii) provide for an expedited process*
14 *through which the Secretary shall review*
15 *applications for such an eligible alien to re-*
16 *side in a foreign country pursuant to sub-*
17 *section (a) of such section 317A if the Sec-*
18 *retary of State determines a country is a*
19 *candidate country pursuant to subsection*
20 *(b)(1)(C) of such section 317A.*

21 (3) *TECHNICAL AND CONFORMING AMEND-*
22 *MENTS.—*

23 (A) *DEFINITION.—Section 101(a)(13)(C)(ii)*
24 *(8 U.S.C. 1101(a)(13)(C)(ii)) is amended by*
25 *adding “except in the case of an eligible alien,*

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1 *or the spouse or child of such alien, who is au-*
 2 *thorized to be absent from the United States*
 3 *under section 317A,” at the end.*

4 *(B) DOCUMENTARY REQUIREMENTS.—Sec-*
 5 *tion 211(b) (8 U.S.C. 1181(b)) is amended by*
 6 *inserting “, including an eligible alien author-*
 7 *ized to reside in a foreign country under section*
 8 *317A and the spouse or child of such eligible*
 9 *alien, if appropriate,” after “101(a)(27)(A),”.*

10 *(C) INELIGIBLE ALIENS.—Section*
 11 *212(a)(7)(A)(i)(I) (8 U.S.C. 1182(a)(7)(A)(i)(I))*
 12 *is amended by inserting “other than an eligible*
 13 *alien authorized to reside in a foreign country*
 14 *under section 317A and the spouse or child of*
 15 *such eligible alien, if appropriate,” after “Act,”.*

16 *(4) CLERICAL AMENDMENT.—The table of con-*
 17 *tents of such Act is amended by inserting after the*
 18 *item relating to section 317 the following:*

“Sec. 317A. Temporary absence of aliens providing health care in developing
 countries.”.

19 *(b) ATTESTATION BY HEALTH CARE WORKERS.—*

20 *(1) ATTESTATION REQUIREMENT.—Section*
 21 *212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by add-*
 22 *ing at the end the following:*

23 *“(E) HEALTH CARE WORKERS WITH OTHER*
 24 *OBLIGATIONS.—*

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1 “(i) *IN GENERAL.*—*An alien who seeks*
2 *to enter the United States for the purpose of*
3 *performing labor as a physician or other*
4 *health care worker is inadmissible unless*
5 *the alien submits to the Secretary of Home-*
6 *land Security or the Secretary of State, as*
7 *appropriate, an attestation that the alien is*
8 *not seeking to enter the United States for*
9 *such purpose during any period in which*
10 *the alien has an outstanding obligation to*
11 *the government of the alien’s country of ori-*
12 *gin or the alien’s country of residence.*

13 “(ii) *OBLIGATION DEFINED.*—*In this*
14 *subparagraph, the term ‘obligation’ means*
15 *an obligation incurred as part of a valid,*
16 *voluntary individual agreement in which*
17 *the alien received financial assistance to de-*
18 *fray the costs of education or training to*
19 *qualify as a physician or other health care*
20 *worker in consideration for a commitment*
21 *to work as a physician or other health care*
22 *worker in the alien’s country of origin or*
23 *the alien’s country of residence.*

24 “(iii) *WAIVER.*—*The Secretary of*
25 *Homeland Security may waive a finding of*

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1 *inadmissibility under clause (i) if the Sec-*
2 *retary determines that—*

3 *“(I) the obligation was incurred*
4 *by coercion or other improper means;*

5 *“(II) the alien and the govern-*
6 *ment of the country to which the alien*
7 *has an outstanding obligation have*
8 *reached a valid, voluntary agreement,*
9 *pursuant to which the alien’s obliga-*
10 *tion has been deemed satisfied, or the*
11 *alien has shown to the satisfaction of*
12 *the Secretary that the alien has been*
13 *unable to reach such an agreement be-*
14 *cause of coercion or other improper*
15 *means; or*

16 *“(III) the obligation should not be*
17 *enforced due to other extraordinary*
18 *circumstances, including undue hard-*
19 *ship that would be suffered by the alien*
20 *in the absence of a waiver.”.*

21 *(2) EFFECTIVE DATE.—The amendment made by*
22 *paragraph (1) shall take effect on the date that is 180*
23 *days after the date of the enactment of this Act.*

24 *(3) APPLICATION.—Not later than the effective*
25 *date described in paragraph (2), the Secretary shall*

1 *begin to carry out subparagraph (E) of section*
2 *212(a)(5) of the Immigration and Nationality Act, as*
3 *added by paragraph (1), including the requirement*
4 *for the attestation and the granting of a waiver de-*
5 *scribed in clause (iii) of such subparagraph (E), re-*
6 *gardless of whether regulations to implement such*
7 *subparagraph have been promulgated.*

8 **SEC. 2318. EXTENSION AND IMPROVEMENT OF THE IRAQI**
9 **SPECIAL IMMIGRANT VISA PROGRAM.**

10 *The Refugee Crisis in Iraq Act of 2007 (8 U.S.C. 1157*
11 *note) is amended—*

12 *(1) in section 1242, by amending subsection (c)*
13 *to read as follows:*

14 *“(c) IMPROVED APPLICATION PROCESS.—Not later*
15 *than 120 days after the date of the enactment of the Border*
16 *Security, Economic Opportunity, and Immigration Mod-*
17 *ernization Act, the Secretary of State and the Secretary of*
18 *Homeland Security, in consultation with the Secretary of*
19 *Defense, shall improve the efficiency by which applications*
20 *for special immigrant visas under section 1244(a) are proc-*
21 *essed so that all steps incidental to the issuance of such*
22 *visas, including required screenings and background checks,*
23 *are completed not later than 9 months after the date on*
24 *which an eligible alien applies for such visa.”;*

25 *(2) in section 1244—*

1 (A) in subsection (b)—

2 (i) in paragraph (1)—

3 (I) by amending subparagraph

4 (B) to read as follows:

5 “(B) was or is employed in Iraq on or after
6 March 20, 2003, for not less than 1 year, by, or
7 on behalf of—

8 “(i) the United States Government;

9 “(ii) a media or nongovernmental or-
10 ganization headquartered in the United
11 States; or

12 “(iii) an organization or entity closely
13 associated with the United States mission
14 in Iraq that has received United States
15 Government funding through an official
16 and documented contract, award, grant, or
17 cooperative agreement;”;

18 (II) in subparagraph (C), by
19 striking “the United States Govern-
20 ment” and inserting “an entity or or-
21 ganization described in subparagraph
22 (B)”;

23 (III) in subparagraph (D), by
24 striking by striking “the United States

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1 *Government.” and inserting “such en-*
2 *tity or organization.”; and*

3 *(ii) in paragraph (4)—*

4 *(I) by striking “A recommenda-*
5 *tion” and inserting the following:*

6 *“(A) IN GENERAL.—Except as provided*
7 *under subparagraph (B), a recommendation”;*

8 *(II) by striking “the United*
9 *States Government prior” and insert-*
10 *ing “an entity or organization de-*
11 *scribed in paragraph (1)(B) prior”;*
12 *and*

13 *(III) by adding at the end the fol-*
14 *lowing:*

15 *“(B) REVIEW PROCESS FOR DENIAL BY*
16 *CHIEF OF MISSION.—*

17 *“(i) IN GENERAL.—An applicant who*
18 *has been denied Chief of Mission approval*
19 *required by subparagraph (A) shall—*

20 *“(I) receive a written decision;*
21 *and*

22 *“(II) be provided 120 days from*
23 *the date of the decision to request re-*
24 *opening of the decision to provide ad-*
25 *ditional information, clarify existing*

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1 *information, or explain any unfavor-*
2 *able information.*

3 “(ii) *SENIOR COORDINATOR.*—*The Sec-*
4 *retary of State shall designate, in the Em-*
5 *bassy of the United States in Baghdad,*
6 *Iraq, a senior coordinator responsible for*
7 *overseeing the efficiency and integrity of the*
8 *processing of special immigrant visas under*
9 *this section, who shall be given—*

10 “(I) *sufficiently high security*
11 *clearance to review Chief of Mission*
12 *denials in cases that appear to have re-*
13 *lied upon insufficient or incorrect in-*
14 *formation; and*

15 “(II) *responsibility for ensuring*
16 *that an applicant described in clause*
17 *(i) receives the information described*
18 *in clause (i)(I).”; and*

19 (B) *in subsection (c)(3), by adding at the*
20 *end the following:*

21 “(C) *SUBSEQUENT FISCAL YEARS.*—*Not-*
22 *withstanding subparagraphs (A) and (B), and*
23 *consistent with subsection (b), any unused bal-*
24 *ance of the total number of principal aliens who*
25 *may be provided special immigrant status under*

1 *this section in fiscal years 2008 through 2012*
2 *may be carried forward and provided through*
3 *the end of fiscal year 2018.”; and*

4 *(3) in section 1248, by adding at the end the fol-*
5 *lowing:*

6 “(f) *REPORT ON IMPROVEMENTS.—*

7 “(1) *IN GENERAL.—Not later than 120 days*
8 *after the date of the enactment of the Border Security,*
9 *Economic Opportunity, and Immigration Moderniza-*
10 *tion Act, the Secretary of State and the Secretary of*
11 *Homeland Security, in consultation with the Sec-*
12 *retary of Defense, shall submit a report, with a classi-*
13 *fied annex, if necessary, to—*

14 “(A) *the Committee on the Judiciary of the*
15 *Senate;*

16 “(B) *the Committee on Foreign Relations of*
17 *the Senate;*

18 “(C) *the Committee on the Judiciary of the*
19 *House of Representatives; and*

20 “(D) *the Committee on Foreign Affairs of*
21 *the House of Representatives.*

22 “(2) *CONTENTS.—The report submitted under*
23 *paragraph (1) shall describe the implementation of*
24 *improvements to the processing of applications for*

1 *special immigrant visas under section 1244(a), in-*
2 *cluding information relating to—*

3 “(A) *enhancing existing systems for con-*
4 *ducting background and security checks of per-*
5 *sons applying for special immigrant status,*
6 *which shall—*

7 “(i) *support immigration security; and*

8 “(ii) *provide for the orderly processing*
9 *of such applications without delay;*

10 “(B) *the financial, security, and personnel*
11 *considerations and resources necessary to carry*
12 *out this subtitle;*

13 “(C) *the number of aliens who have applied*
14 *for special immigrant visas under section 1244*
15 *during each month of the preceding fiscal year;*

16 “(D) *the reasons for the failure to expedi-*
17 *tiously process any applications that have been*
18 *pending for longer than 9 months;*

19 “(E) *the total number of applications that*
20 *are pending due to the failure—*

21 “(i) *to receive approval from the Chief*
22 *of Mission;*

23 “(ii) *for U.S. Citizenship and Immi-*
24 *gration Services to complete the adjudica-*
25 *tion of the Form I-360;*

1 “(iii) to conduct a visa interview; or

2 “(iv) to issue the visa to an eligible
3 alien;

4 “(F) the average wait times for an appli-
5 cant at each of the stages described in subpara-
6 graph (E);

7 “(G) the number of denials or rejections at
8 each of the stages described in subparagraph (E);
9 and

10 “(H) a breakdown of reasons for denials at
11 by the Chief of Mission based on the categories
12 already made available to denied special immi-
13 grant visa applicants in the denial letter sent to
14 them by the Chief of Mission.

15 “(g) *PUBLIC QUARTERLY REPORTS.*—Not later than
16 120 days after the date of the enactment of the *Border Secu-*
17 *rity, Economic Opportunity, and Immigration Moderniza-*
18 *tion Act*, and every 3 months thereafter, the Secretary of
19 State and the Secretary of Homeland Security, in consulta-
20 tion with the Secretary of Defense, shall publish a report
21 on the website of the Department of State that describes the
22 efficiency improvements made in the process by which ap-
23 plications for special immigrant visas under section
24 1244(a) are processed, including information described in
25 subparagraphs (C) through (H) of subsection (f)(2).”.

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1 **SEC. 2319. EXTENSION AND IMPROVEMENT OF THE AFGHAN**
2 **SPECIAL IMMIGRANT VISA PROGRAM.**

3 *Section 602(b) of the Afghan Allies Protection Act of*
4 *2009 (8 U.S.C. 1101 note) is amended—*

5 *(1) in paragraph (2)—*

6 *(A) in subparagraph (A)—*

7 *(i) by amending clause (ii) to read as*
8 *follows:*

9 *“(ii) was or is employed in Afghani-*
10 *stan on or after October 7, 2001, for not less*
11 *than 1 year, by, or on behalf of—*

12 *“(I) the United States Govern-*
13 *ment;*

14 *“(II) a media or nongovernmental*
15 *organization headquartered in the*
16 *United States; or*

17 *“(III) an organization or entity*
18 *closely associated with the United*
19 *States mission in Afghanistan that has*
20 *received United States Government*
21 *funding through an official and docu-*
22 *mented contract, award, grant, or co-*
23 *operative agreement;”;*

24 *(ii) in clause (iii), by striking “the*
25 *United States Government” and inserting*

1 *“an entity or organization described in*
2 *clause (ii)”*; and

3 *(iii) in clause (iv), by striking by*
4 *striking “the United States Government.”*
5 *and inserting “such entity or organiza-*
6 *tion.”*;

7 *(B) by amending subparagraph (B) to read*
8 *as follows:*

9 *“(B) FAMILY MEMBERS.—An alien is de-*
10 *scribed in this subparagraph if the alien is—*

11 *“(i) the spouse or minor child of a*
12 *principal alien described in subparagraph*
13 *(A) who is accompanying or following to*
14 *join the principal alien in the United*
15 *States; or*

16 *“(ii)(I) the spouse, child, parent, or*
17 *sibling of a principal alien described in*
18 *subparagraph (A), whether or not accom-*
19 *panying or following to join; and*

20 *“(II) has experienced or is experi-*
21 *encing an ongoing serious threat as a con-*
22 *sequence of the qualifying employment of a*
23 *principal alien described in subparagraph*
24 *(A).”*; and

25 *(C) in subparagraph (D)—*

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1 (i) by striking “A recommendation”
2 and inserting the following:

3 “(i) *IN GENERAL.—Except as provided*
4 *under clause (ii), a recommendation*”;

5 (ii) by striking “the United States
6 Government prior” and inserting “an enti-
7 ty or organization described in paragraph
8 (2)(A)(ii) prior”; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(i) *REVIEW PROCESS FOR DENIAL BY*
12 *CHIEF OF MISSION.—*

13 “(I) *IN GENERAL.—An applicant*
14 *who has been denied Chief of Mission*
15 *approval shall—*

16 “(aa) *receive a written deci-*
17 *sion; and*

18 “(bb) *be provided 120 days*
19 *from the date of receipt of such*
20 *opinion to request reconsideration*
21 *of the decision to provide addi-*
22 *tional information, clarify exist-*
23 *ing information, or explain any*
24 *unfavorable information.*

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1 “(II) SENIOR COORDINATOR.—
2 *The Secretary of State shall designate,*
3 *in the Embassy of the United States in*
4 *Kabul, Afghanistan, a senior coordi-*
5 *nator responsible for overseeing the ef-*
6 *iciency and integrity of the processing*
7 *of special immigrant visas under this*
8 *section, who shall be given—*

9 “(aa) sufficiently high secu-
10 *rity clearance to review Chief of*
11 *Mission denials in cases that ap-*
12 *pear to have relied upon insuffi-*
13 *cient or incorrect information;*
14 *and*

15 “(bb) responsibility for en-
16 *sureing that an applicant de-*
17 *scribed in subclause (I) receives*
18 *the information described in sub-*
19 *clause (I)(aa).”;*

20 (2) in paragraph (3)(C), by amending clause
21 (iii) to read as follows:

22 “(iii) FISCAL YEARS 2014 THROUGH
23 2018.—*For each of the fiscal years 2014*
24 *through 2018, the total number of principal*
25 *aliens who may be provided special immi-*

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1 *grant status under this section may not ex-*
2 *ceed 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 num-*
8 *ber of such allocated visas that were*
9 *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 forward.”;*

15 *(3) in paragraph (4)—*

16 *(A) in the heading, by striking “PROHIBI-*
17 *TION ON FEES.—” and inserting “APPLICATION*
18 *PROCESS.—”;*

19 *(B) by striking “The Secretary” and insert-*
20 *ing the following:*

21 *“(A) IN GENERAL.—Not later than 120*
22 *days after the date of enactment of the Border*
23 *Security, Economic Opportunity, and Immigra-*
24 *tion Modernization Act, the Secretary of State*
25 *and the Secretary of Homeland Security, in con-*

1 *sultation with the Secretary of Defense, shall im-*
2 *prove the efficiency by which applications for*
3 *special immigrant visas under paragraph (1)*
4 *are processed so that all steps incidental to the*
5 *issuance of such visas, including required*
6 *screenings and background checks, are completed*
7 *not later than 6 months after the date on which*
8 *an eligible alien applies for such visa.*

9 “(B) *PROHIBITION ON FEES.*—*The Sec-*
10 *retary*”; and

11 (4) *by adding at the end the following:*

12 “(12) *REPORT ON IMPROVEMENTS.*—*Not later*
13 *than 120 days after the date of the enactment of the*
14 *Border Security, Economic Opportunity, and Immi-*
15 *gration Modernization Act, the Secretary of State and*
16 *the Secretary of Homeland Security, in consultation*
17 *with the Secretary of Defense, shall submit to the ap-*
18 *propriate committees of Congress a report, with a*
19 *classified annex, if necessary, that describes the imple-*
20 *mentation of improvements to the processing of appli-*
21 *cations for special immigrant visas under this sub-*
22 *section, including information relating to—*

23 “(A) *enhancing existing systems for con-*
24 *ducting background and security checks of per-*

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1 *sons applying for special immigrant status,*
2 *which shall—*

3 *“(i) support immigration security; and*

4 *“(ii) provide for the orderly processing*
5 *of such applications without delay;*

6 *“(B) the financial, security, and personnel*
7 *considerations and resources necessary to carry*
8 *out this section;*

9 *“(C) the number of aliens who have applied*
10 *for special immigrant visas under this subsection*
11 *during each month of the preceding fiscal year;*

12 *“(D) the reasons for the failure to expedi-*
13 *tiously process any applications that have been*
14 *pending for longer than 9 months;*

15 *“(E) the total number of applications that*
16 *are pending due to the failure—*

17 *“(i) to receive approval from the Chief*
18 *of Mission;*

19 *“(ii) for U.S. Citizenship and Immi-*
20 *gration Services to complete the adjudica-*
21 *tion of the Form I-360;*

22 *“(iii) to conduct a visa interview; or*

23 *“(iv) to issue the visa to an eligible*
24 *alien;*

1 “(F) the average wait times for an appli-
2 cant at each of the stages described in subpara-
3 graph (E);

4 “(G) the number of denials or rejections at
5 each of the stages described in subparagraph (E);
6 and

7 “(H) a breakdown of reasons for denials by
8 the Chief of Mission based on the categories al-
9 ready made available to denied special immi-
10 grant visa applicants in the denial letter sent to
11 them by the Chief of Mission.

12 “(13) PUBLIC QUARTERLY REPORTS.—Not later
13 than 120 days after the date of the enactment of the
14 Border Security, Economic Opportunity, and Immig-
15 ration Modernization Act, and every 3 months there-
16 after, the Secretary of State and the Secretary of
17 Homeland Security, in consultation with the Sec-
18 retary of Defense, shall publish a report on the
19 website of the Department of State that describes the
20 efficiency improvements made in the process by which
21 applications for special immigrant visas under this
22 subsection are processed, including information de-
23 scribed in subparagraph (C) through (H) of para-
24 graph (12).”.

1 **SEC. 2320. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS**
2 **WORKER PROGRAM.**

3 *Section 101(a)(27)(C)(ii) (8 U.S.C. 1101*
4 *(a)(27)(C)(ii)) is amended in subclauses (II) and (III) by*
5 *striking “before September 30, 2015,” both places such term*
6 *appears.*

7 **SEC. 2321. SPECIAL IMMIGRANT STATUS FOR CERTAIN SUR-**
8 **VIVING SPOUSES AND CHILDREN.**

9 *(a) IN GENERAL.—Section 101(a)(27) (8 U.S.C.*
10 *1101(a)(27)) is amended in subparagraph (D)—*

11 *(1) by inserting “(i)” before “an immigrant who*
12 *is an employee”;*

13 *(2) by inserting “or” after “grant such status;”;*
14 *and*

15 *(3) by inserting after clause (i), as designated by*
16 *paragraph (1), the following:*

17 *“(i) an immigrant who is the surviving*
18 *spouse or child of an employee of the United*
19 *States Government abroad killed in the line of*
20 *duty, provided that the employee had performed*
21 *faithful service for a total of 15 years, or more,*
22 *and that the principal officer of a Foreign Serv-*
23 *ice establishment (or, in the case of the American*
24 *Institute of Taiwan, the Director thereof) in his*
25 *or her discretion, recommends the granting of*
26 *special immigrant status to the spouse or child*

1 *and the Secretary of State approves such rec-*
2 *ommendation and finds that it is in the national*
3 *interest to grant such status;”.*

4 **(b) EFFECTIVE DATE.**—*The amendments made by sub-*
5 *section (a) take effect beginning on January 31, 2013, and*
6 *shall have retroactive effect.*

7 **SEC. 2322. REUNIFICATION OF CERTAIN FAMILIES OF FILI-**
8 **PINO VETERANS OF WORLD WAR II.**

9 **(a) SHORT TITLE.**—*This section may be cited as the*
10 *“Filipino Veterans Family Reunification Act”.*

11 **(b) EXEMPTION FROM IMMIGRANT VISA LIMIT.**—*Sec-*
12 *tion 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by sec-*
13 *tions 2103(c), 2212(d), and 2307(b), is further amended by*
14 *adding at the end the following:*

15 **“(O) Aliens who—**

16 **“(i) are the sons or daughters of a citizen**
17 **of the United States; and**

18 **“(ii) have a parent (regardless of whether**
19 **the parent is living or dead) who was natural-**
20 **ized pursuant to—**

21 **“(I) section 405 of the Immigration**
22 **Act of 1990 (Public Law 101–649; 8 U.S.C.**
23 **1440 note); or**

24 **“(II) title III of the Act of October 14,**
25 **1940 (54 Stat. 1137, chapter 876), as added**

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1 *by section 1001 of the Second War Powers*
2 *Act, 1942 (56 Stat. 182, chapter 199).”.*

3 ***Subtitle D—Conrad State 30 and***
4 ***Physician Access***

5 ***SEC. 2401. CONRAD STATE 30 PROGRAM.***

6 *Section 220(c) of the Immigration and Nationality*
7 *Technical Corrections Act of 1994 (Public Law 103–416;*
8 *8 U.S.C. 1182 note) is amended by striking “and before*
9 *September 30, 2015”.*

10 ***SEC. 2402. RETAINING PHYSICIANS WHO HAVE PRACTICED***
11 ***IN MEDICALLY UNDERSERVED COMMUNITIES.***

12 *Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended*
13 *by sections 2103(c), 2212(d)(2), 2307(b), and 2323(b) is*
14 *further amended by adding at the end the following:*

15 *“(P)(i) Alien physicians who have completed*
16 *service requirements of a waiver requested under sec-*
17 *tion 203(b)(2)(B)(ii), including alien physicians who*
18 *completed such service before the date of the enact-*
19 *ment of the Border Security, Economic Opportunity,*
20 *and Immigration Modernization Act and any spouses*
21 *or children of such alien physicians.*

22 *“(ii) Nothing in this subparagraph may be con-*
23 *strued—*

24 *“(I) to prevent the filing of a petition with*
25 *the Secretary of Homeland Security for classi-*

1 *fication under section 204(a) or the filing of an*
2 *application for adjustment of status under sec-*
3 *tion 245 by an alien physician described in this*
4 *subparagraph prior to the date by which such*
5 *alien physician has completed the service de-*
6 *scribed in section 214(l) or worked full-time as*
7 *a physician for an aggregate of 5 years at the*
8 *location identified in the section 214(l) waiver or*
9 *in an area or areas designated by the Secretary*
10 *of Health and Human Services as having a*
11 *shortage of health care professionals; or*

12 *“(II) to permit the Secretary of Homeland*
13 *Security to grant such a petition or application*
14 *until the alien has satisfied all the requirements*
15 *of the waiver received under section 214(l).”.*

16 **SEC. 2403. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

17 *(a) IN GENERAL.—Section 214(l)(1)(C) (8 U.S.C.*
18 *1184(l)(1)(C)) is amended by striking clauses (i) and (ii)*
19 *and inserting the following:*

20 *“(i) the alien demonstrates a bona fide offer*
21 *of full-time employment, at a health care organi-*
22 *zation, which employment has been determined*
23 *by the Secretary of Homeland Security to be in*
24 *the public interest; and*

1 “(ii) the alien agrees to begin employment
2 with the health facility or health care organiza-
3 tion in a geographic area or areas which are des-
4 ignated by the Secretary of Health and Human
5 Services as having a shortage of health care pro-
6 fessionals by the later of the date that is 90 days
7 after receiving such waiver, 90 days after com-
8 pleting graduate medical education or training
9 under a program approved pursuant to section
10 212(j)(1), or 90 days after receiving non-
11 immigrant status or employment authorization,
12 provided that the alien or the alien’s employer
13 petitions for such nonimmigrant status or em-
14 ployment authorization within 90 days of com-
15 pleting graduate medical education or training
16 and agrees to continue to work for a total of not
17 less than 3 years in any status authorized for
18 such employment under this subsection, unless—

19 “(I) the Secretary determines that ex-
20 tenuating circumstances exist that justify a
21 lesser period of employment at such facility
22 or organization, in which case the alien
23 shall demonstrate another bona fide offer of
24 employment at a health facility or health

1 *care organization, for the remainder of such*
2 *3-year period;*

3 “(II) *the interested agency that re-*
4 *quested the waiver attests that extenuating*
5 *circumstances exist that justify a lesser pe-*
6 *riod of employment at such facility or orga-*
7 *nization in which case the alien shall dem-*
8 *onstrate another bona fide offer of employ-*
9 *ment at a health facility or health care or-*
10 *ganization so designated by the Secretary of*
11 *Health and Human Services, for the re-*
12 *mainder of such 3-year period; or*

13 “(III) *if the alien elects not to pursue*
14 *a determination of extenuating cir-*
15 *cumstances pursuant to subclause (I) or*
16 *(II), the alien terminates the alien’s em-*
17 *ployment relationship with such facility or*
18 *organization, in which case the alien shall*
19 *be employed for the remainder of such 3-*
20 *year period, and 1 additional year for each*
21 *termination, at another health facility or*
22 *health care organization in a geographic*
23 *area or areas which are designated by the*
24 *Secretary of Health and Human Services as*

1 *having a shortage of health care profes-*
2 *sionals; and”.*

3 **(b) PHYSICIAN EMPLOYMENT IN UNDERSERVED**
4 **AREAS.**—*Section 214(l)(1) (8 U.S.C. 1184(l)(1)), as*
5 *amended by subsection (a), is further amended by adding*
6 *at the end the following:*

7 “(E) *If a physician pursuing graduate medical*
8 *education or training pursuant to section*
9 *101(a)(15)(J) applies for a Conrad J–1 waiver with*
10 *an interested State department of health and the ap-*
11 *plication is denied because the State has requested the*
12 *maximum number of waivers permitted for that fiscal*
13 *year, the physician’s nonimmigrant status shall be*
14 *automatically extended for 6 months if the physician*
15 *agrees to seek a waiver under this subsection (except*
16 *for subparagraph (D)(ii)) to work for an employer in*
17 *a State that has not yet requested the maximum*
18 *number of waivers. The physician shall be authorized*
19 *to work only for such employer from the date on*
20 *which a new waiver application is filed with the*
21 *State until the date on which the Secretary of Home-*
22 *land Security denies such waiver or issues work au-*
23 *thorization for such employment pursuant to the ap-*
24 *proval of such waiver.”.*

1 (c) *GRADUATE MEDICAL EDUCATION OR TRAINING.*—
2 *Section 214(h)(1), as amended by section 4401(b) of this*
3 *Act, is further amended by inserting “(J) (if entering the*
4 *United States for graduate medical education or training),”*
5 *after “(H)(i)(c).”*

6 (d) *CONTRACT REQUIREMENTS.*—*Section 214(l) (8*
7 *U.S.C. 1184(l)) is amended by adding at the end the fol-*
8 *lowing:*

9 “(4) *An alien granted a waiver under paragraph*
10 *(1)(C) shall enter into an employment agreement with the*
11 *contracting health facility or health care organization*
12 *that—*

13 “(A) *specifies the maximum number of on-call*
14 *hours per week (which may be a monthly average)*
15 *that the alien will be expected to be available and the*
16 *compensation the alien will receive for on-call time;*

17 “(B) *specifies whether the contracting facility or*
18 *organization will pay for the alien’s malpractice in-*
19 *surance premiums, including whether the employer*
20 *will provide malpractice insurance and, if so, the*
21 *amount of such insurance that will be provided;*

22 “(C) *describes all of the work locations that the*
23 *alien will work and a statement that the contracting*
24 *facility or organization will not add additional work*

1 *locations without the approval of the Federal agency*
2 *or State agency that requested the waiver; and*

3 *“(D) does not include a non-compete provision.*

4 *“(5) An alien granted a waiver under paragraph*
5 *(1)(C) whose employment relationship with a health facility*
6 *or health care organization terminates during the 3-year*
7 *service period required by such paragraph—*

8 *“(A) shall have a period of 120 days beginning*
9 *on the date of such termination of employment to sub-*
10 *mit to the Secretary of Homeland Security applica-*
11 *tions or petitions to commence employment with an-*
12 *other contracting health facility or health care organi-*
13 *zation in a geographic area or areas which are des-*
14 *ignated by the Secretary of Health and Human Serv-*
15 *ices as having a shortage of health care professionals;*

16 *“(B) shall be considered to be maintaining law-*
17 *ful status in an authorized stay during the 120-day*
18 *period referred to in subsection (A); and*

19 *“(C) shall not be considered to be fulfilling the*
20 *3-year term of service during the 120-day period re-*
21 *ferred to in subparagraph (A).”.*

22 **SEC. 2404. ALLOTMENT OF CONRAD 30 WAIVERS.**

23 *(a) IN GENERAL.—Section 214(l) (8 U.S.C. 1184(l)),*
24 *as amended by section 2403, is further amended by adding*
25 *at the end the following:*

1 “(6)(A)(i) All States shall be allotted a total of 35
2 waivers under paragraph (1)(B) for a fiscal year if 90 per-
3 cent of the waivers available to the States receiving at least
4 5 waivers were used in the previous fiscal year.

5 “(ii) When an allocation has occurred under clause (i),
6 all States shall be allotted an additional 5 waivers under
7 paragraph (1)(B) for each subsequent fiscal year if 90 per-
8 cent of the waivers available to the States receiving at least
9 5 waivers were used in the previous fiscal year. If the States
10 are allotted 45 or more waivers for a fiscal year, the States
11 will only receive an additional increase of 5 waivers the
12 following fiscal year if 95 percent of the waivers available
13 to the States receiving at least 1 waiver were used in the
14 previous fiscal year.

15 “(B) Any increase in allotments under subparagraph
16 (A) shall be maintained indefinitely, unless in a fiscal year,
17 the total number of such waivers granted is 5 percent lower
18 than in the last year in which there was an increase in
19 the number of waivers allotted pursuant to this paragraph,
20 in which case—

21 “(i) the number of waivers allotted shall be de-
22 creased by 5 for all States beginning in the next fiscal
23 year; and

24 “(ii) each additional 5 percent decrease in such
25 waivers granted from the last year in which there was

1 *an increase in the allotment, shall result in an addi-*
2 *tional decrease of 5 waivers allotted for all States,*
3 *provided that the number of waivers allotted for all*
4 *States shall not drop below 30.”.*

5 *(b) ACADEMIC MEDICAL CENTERS.—Section*
6 *214(l)(1)(D) (8 U.S.C. 1184(l)(1)(D)) is amended—*

7 *(1) in clause (ii), by striking “and” at the end;*

8 *(2) in clause (iii), by striking the period at the*
9 *end and inserting “; and”; and*

10 *(3) by adding at the end the following:*

11 *“(iv) in the case of a request by an inter-*
12 *ested State agency—*

13 *“(I) the head of such agency deter-*
14 *mines that the alien is to practice medicine*
15 *in, or be on the faculty of a residency pro-*
16 *gram at, an academic medical center (as*
17 *that term is defined in section 411.355(e)(2)*
18 *of title 42, Code of Federal Regulations, or*
19 *similar successor regulation), without re-*
20 *gard to whether such facility is located*
21 *within an area designated by the Secretary*
22 *of Health and Human Services as having a*
23 *shortage of health care professionals; and*

24 *“(II) the head of such agency deter-*
25 *mines that—*

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1 “(aa) the alien physician’s work
2 is in the public interest; and

3 “(bb) the grant of such waiver
4 would not cause the number of the
5 waivers granted on behalf of aliens for
6 such State for a fiscal year (within the
7 limitation in subparagraph (B) and
8 subject to paragraph (6)) in accord-
9 ance with the conditions of this clause
10 to exceed 3.”.

11 **SEC. 2405. AMENDMENTS TO THE PROCEDURES, DEFINI-**
12 **TIONS, AND OTHER PROVISIONS RELATED TO**
13 **PHYSICIAN IMMIGRATION.**

14 (a) *ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-*
15 *FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-*
16 *SERVED AREAS.*—Section 214(l)(2)(A) (8 U.S.C.
17 1184(l)(2)(A)) is amended by striking “an alien described
18 in section 101(a)(15)(H)(i)(b).” and inserting “any status
19 authorized for employment under this Act.”.

20 (b) *SHORT TERM WORK AUTHORIZATION FOR PHYSI-*
21 *CANS COMPLETING THEIR RESIDENCIES.*—A physician
22 completing graduate medical education or training as de-
23 scribed in section 212(j) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1182(j)) as a nonimmigrant described
25 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.

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1 *1101(a)(15)(H)(i)) shall have such nonimmigrant status*
2 *automatically extended until October 1 of the fiscal year*
3 *for which a petition for a continuation of such non-*
4 *immigrant status has been submitted in a timely manner*
5 *and where the employment start date for the beneficiary*
6 *of such petition is October 1 of that fiscal year. Such physi-*
7 *cian shall be authorized to be employed incident to status*
8 *during the period between the filing of such petition and*
9 *October 1 of such fiscal year. However, the physician's sta-*
10 *tus and employment authorization shall terminate 30 days*
11 *from the date such petition is rejected, denied, or revoked.*
12 *A physician's status and employment authorization will*
13 *automatically extend to October 1 of the next fiscal year*
14 *if all visas as described in such section 101(a)(15)(H)(i)*
15 *authorized to be issued for the fiscal year have been issued.*

16 *(c) APPLICABILITY OF SECTION 212(e) TO SPOUSES*
17 *AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse or*
18 *child of an exchange visitor described in section*
19 *101(a)(15)(J) of the Immigration and Nationality Act (8*
20 *U.S.C. 1101(a)(15)(J)) shall not be subject to the require-*
21 *ments of section 212(e) of the Immigration and Nationality*
22 *Act (8 U.S.C. 1182(e)).*

23 ***Subtitle E—Integration***

24 ***SEC. 2501. DEFINITIONS.***

25 *In this subtitle:*

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1 (1) *CHIEF.*—*The term “Chief” means the Chief*
2 *of the Office.*

3 (2) *FOUNDATION.*—*The term “Foundation”*
4 *means the United States Citizenship Foundation es-*
5 *tablished pursuant to section 2531.*

6 (3) *IEACA GRANTS.*—*The term “IEACA grants”*
7 *means Initial Entry, Adjustment, and Citizenship*
8 *Assistance grants authorized under section 2537.*

9 (4) *IMMIGRANT INTEGRATION.*—*The term “immi-*
10 *grant integration” means the process by which immi-*
11 *grants—*

12 (A) *join the mainstream of civic life by en-*
13 *gaging and sharing ownership in their local*
14 *community, the United States, and the prin-*
15 *ciples of the Constitution;*

16 (B) *attain financial self-sufficiency and up-*
17 *ward economic mobility for themselves and their*
18 *family members; and*

19 (C) *acquire English language skills and re-*
20 *lated cultural knowledge necessary to effectively*
21 *participate in their community.*

22 (5) *LINGUISTIC INTEGRATION.*—*The term “lin-*
23 *guistic integration” means the acquisition, by limited*
24 *English proficient individuals, of English language*
25 *skills and related cultural knowledge necessary to*

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1 *meaningfully and effectively fulfill their roles as com-*
2 *munity members, family members, and workers.*

3 (6) *OFFICE.*—*The term “Office” means the Office*
4 *of Citizenship and New Americans established in U.S.*
5 *Citizenship and Immigration Services under section*
6 *2511.*

7 (7) *RECEIVING COMMUNITIES.*—*The term “re-*
8 *ceiving communities” means the long-term residents*
9 *of the communities in which immigrants settle.*

10 (8) *TASK FORCE.*—*The term “Task Force”*
11 *means the Task Force on New Americans established*
12 *pursuant to section 2521.*

13 (9) *USCF COUNCIL.*—*The term “USCF Council”*
14 *means the Council of Directors of the Foundation.*

15 **CHAPTER 1—CITIZENSHIP AND NEW**
16 **AMERICANS**

17 **Subchapter A—Office of Citizenship and New**
18 **Americans**

19 **SEC. 2511. OFFICE OF CITIZENSHIP AND NEW AMERICANS.**

20 (a) *RENAMING OFFICE OF CITIZENSHIP.*—

21 (1) *IN GENERAL.*—*Beginning on the date of the*
22 *enactment of this Act, the Office of Citizenship in*
23 *U.S. Citizenship and Immigration Services shall be*
24 *referred to as the “Office of Citizenship and New*
25 *Americans”.*

1 (2) *REFERENCES.*—Any reference in a law, regu-
2 lation, document, paper, or other record of the United
3 States to the Office of Citizenship in U.S. Citizenship
4 and Immigration Services shall be deemed to be a ref-
5 erence to the Office of Citizenship and New Ameri-
6 cans.

7 (3) *TECHNICAL AND CONFORMING AMEND-*
8 *MENTS.*—Section 451 of the Homeland Security Act
9 of 2002 (6 U.S.C. 271) is amended—

10 (A) in the section heading, by striking “**BU-**
11 **REAU OF**” and inserting “**U.S.**”;

12 (B) in subsection (a)(1), by striking “the
13 ‘Bureau of’” and inserting “‘U.S.’”;

14 (C) by striking “the Bureau of” each place
15 such terms appears and inserting “U.S.”; and

16 (D) in subsection (f)—

17 (i) by amending the subsection heading
18 to read as follows: “*OFFICE OF CITIZEN-*
19 *SHIP AND NEW AMERICANS*”; and

20 (ii) by striking paragraph (1) and in-
21 serting the following:

22 “(1) *CHIEF.*—The Office of Citizenship and New
23 Americans shall be within U.S. Citizenship and Im-
24 migration Services and shall be headed by the Chief
25 of the Office of Citizenship and New Americans.”.

1 (b) *FUNCTIONS.*—*Section 451(f) of such Act (6 U.S.C.*
2 *271(f)), as amended by subsection (a)(3)(D), is further*
3 *amended by striking paragraph (2) and inserting the fol-*
4 *lowing:*

5 “(2) *FUNCTIONS.*—*The Chief of the Office of*
6 *Citizenship and New Americans shall—*

7 “(A) *promote institutions and provide*
8 *training on citizenship responsibilities for aliens*
9 *interested in becoming naturalized citizens of the*
10 *United States, including the development of edu-*
11 *cational materials for such aliens;*

12 “(B) *provide general leadership, consulta-*
13 *tion, and coordination of the immigrant integra-*
14 *tion programs across the Federal Government*
15 *and with State and local entities;*

16 “(C) *in coordination with the Task Force*
17 *on New Americans established under section*
18 *2521 of the Border Security, Economic Oppor-*
19 *tunity, and Immigration Modernization Act—*

20 “(i) *advise the Director of U.S. Citi-*
21 *zenship and Immigration Services, the Sec-*
22 *retary of Homeland Security, and the Do-*
23 *mestic Policy Council, on—*

24 “(I) *the challenges and opportuni-*
25 *ties relating to the linguistic, economic,*

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1 *and civic integration of immigrants*
2 *and their young children and progress*
3 *in meeting integration goals and indi-*
4 *cators; and*

5 “*(II) immigrant integration con-*
6 *siderations relating to Federal budgets;*

7 “*(ii) establish national goals for intro-*
8 *ducing new immigrants into the United*
9 *States and measure the degree to which such*
10 *goals are met;*

11 “*(iii) evaluate the scale, quality, and*
12 *effectiveness of Federal Government efforts*
13 *in immigrant integration and provide ad-*
14 *vice on appropriate actions; and*

15 “*(iv) identify the integration implica-*
16 *tions of new or proposed immigration poli-*
17 *cies and provide recommendations for ad-*
18 *dresssing such implications;*

19 “*(D) serve as a liaison and intermediary*
20 *with State and local governments and other enti-*
21 *ties to assist in establishing local goals, task*
22 *forces, and councils to assist in—*

23 “*(i) introducing immigrants into the*
24 *United States; and*

1 “(i) *promoting citizenship education*
2 *and awareness among aliens interested in*
3 *becoming naturalized citizens of the United*
4 *States;*

5 “(E) *coordinate with other Federal agencies*
6 *to provide information to State and local govern-*
7 *ments on the demand for existing Federal and*
8 *State English education programs and best prac-*
9 *tices for immigrants who recently arrived in the*
10 *United States;*

11 “(F) *assist States in coordinating the ac-*
12 *tivities of the grant programs authorized under*
13 *sections 2537 and 2538 of the Border Security,*
14 *Economic Opportunity, and Immigration Mod-*
15 *ernization Act;*

16 “(G) *submit a biennial report to the appro-*
17 *priate congressional committees that describes*
18 *the activities of the Office of Citizenship and*
19 *New Americans; and*

20 “(H) *carry out such other functions and ac-*
21 *tivities as Secretary may assign.”.*

22 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*
23 *sections (a) and (b) shall take effect on the date that is 1*
24 *year after the date of the enactment of this Act.*

1 ***Subchapter B—Task Force on New Americans***

2 ***SEC. 2521. ESTABLISHMENT.***

3 (a) *IN GENERAL.*—*The Secretary shall establish a*
4 *Task Force on New Americans.*

5 (b) *FULLY FUNCTIONAL.*—*The Task Force shall be*
6 *fully functional not later than 18 months after the date of*
7 *the enactment of this Act.*

8 ***SEC. 2522. PURPOSE.***

9 *The purposes of the Task Force are—*

10 (1) *to establish a coordinated Federal program*
11 *and policy response to immigrant integration issues;*
12 *and*

13 (2) *to advise and assist the Federal Government*
14 *in identifying and fostering policies to carry out the*
15 *policies and goals established under this chapter.*

16 ***SEC. 2523. MEMBERSHIP.***

17 (a) *IN GENERAL.*—*The Task Force shall be comprised*
18 *of—*

19 (1) *the Secretary, who shall serve as Chair of the*
20 *Task Force;*

21 (2) *the Secretary of the Treasury;*

22 (3) *the Attorney General;*

23 (4) *the Secretary of Commerce;*

24 (5) *the Secretary of Labor;*

1 (6) *the Secretary of Health and Human Serv-*
2 *ices;*

3 (7) *the Secretary of Housing and Urban Devel-*
4 *opment;*

5 (8) *the Secretary of Transportation;*

6 (9) *the Secretary of Education;*

7 (10) *the Director of the Office of Management*
8 *and Budget;*

9 (11) *the Administrator of the Small Business*
10 *Administration;*

11 (12) *the Director of the Domestic Policy Council;*

12 (13) *the Director of the National Economic*
13 *Council; and*

14 (14) *the National Security Advisor.*

15 (b) *DELEGATION.*—*A member of the Task Force may*
16 *delegate a senior official, at the Assistant Secretary, Deputy*
17 *Administrator, Deputy Director, or Assistant Attorney*
18 *General level, to perform the functions of a Task Force*
19 *member described in section 2524.*

20 **SEC. 2524. FUNCTIONS.**

21 (a) *MEETINGS; FUNCTIONS.*—*The Task Force shall—*

22 (1) *meet at the call of the Chair; and*

23 (2) *perform such functions as the Secretary may*
24 *prescribe.*

1 **(b) COORDINATED RESPONSE.**—*The Task Force shall*
2 *work with executive branch agencies—*

3 **(1)** *to provide a coordinated Federal response to*
4 *issues that impact the lives of new immigrants and*
5 *receiving communities, including—*

6 **(A)** *access to youth and adult education*
7 *programming;*

8 **(B)** *workforce training;*

9 **(C)** *health care policy;*

10 **(D)** *access to naturalization; and*

11 **(E)** *community development challenges; and*

12 **(2)** *to ensure that Federal programs and policies*
13 *adequately address such impacts.*

14 **(c) LIAISONS.**—*Members of the Task Force shall serve*
15 *as liaisons to their respective agencies to ensure the quality*
16 *and timeliness of their agency’s participation in activities*
17 *of the Task Force, including—*

18 **(1)** *creating integration goals and indicators;*

19 **(2)** *implementing the biannual consultation*
20 *process with the agency’s State and local counter-*
21 *parts; and*

22 **(3)** *reporting on agency data collection, policy,*
23 *and program efforts relating to achieving the goals*
24 *and indicators referred to in paragraph (1).*

1 (d) *RECOMMENDATIONS.—Not later than 18 months*
2 *after the end of the period specified in section 2521(b), the*
3 *Task Force shall—*

4 (1) *provide recommendations to the Domestic*
5 *Policy Council and the Secretary on the effects of*
6 *pending legislation and executive branch policy pro-*
7 *posals;*

8 (2) *suggest changes to Federal programs or poli-*
9 *cies to address issues of special importance to new*
10 *immigrants and receiving communities;*

11 (3) *review and recommend changes to policies*
12 *that have a distinct impact on new immigrants and*
13 *receiving communities; and*

14 (4) *assist in the development of legislative and*
15 *policy proposals of special importance to new immi-*
16 *grants and receiving communities.*

17 **CHAPTER 2—PUBLIC-PRIVATE**
18 **PARTNERSHIP**

19 **SEC. 2531. ESTABLISHMENT OF UNITED STATES CITIZEN-**
20 **SHIP FOUNDATION.**

21 *The Secretary, acting through the Director of U.S.*
22 *Citizenship and Immigration Services, is authorized to es-*
23 *tablish a nonprofit corporation or a not-for-profit, public*
24 *benefit, or similar entity, which shall be known as the*
25 *“United States Citizenship Foundation”.*

1 **SEC. 2532. FUNDING.**

2 (a) *GIFTS TO FOUNDATION.*—*In order to carry out the*
3 *purposes set forth in section 2533, the Foundation may—*

4 (1) *solicit, accept, and make gifts of money and*
5 *other property in accordance with section 501(c)(3) of*
6 *the Internal Revenue Code of 1986;*

7 (2) *engage in coordinated work with the Depart-*
8 *ment, including the Office and U.S. Citizenship and*
9 *Immigration Services; and*

10 (3) *accept, hold, administer, invest, and spend*
11 *any gift, devise, or bequest of real or personal prop-*
12 *erty made to the Foundation.*

13 (b) *GIFTS TO OFFICE OF CITIZENSHIP AND NEW*
14 *AMERICANS.*—*The Office may accept gifts from the Founda-*
15 *tion to support the functions of the Office.*

16 **SEC. 2533. PURPOSES.**

17 *The purposes of the Foundation are—*

18 (1) *to expand citizenship preparation programs*
19 *for lawful permanent residents;*

20 (2) *to provide direct assistance for aliens seeking*
21 *provisional immigrant status, legal permanent resi-*
22 *dent status, or naturalization as a United States cit-*
23 *izen; and*

24 (3) *to coordinate immigrant integration with*
25 *State and local entities.*

1 **SEC. 2534. AUTHORIZED ACTIVITIES.**

2 *The Foundation shall carry out its purpose by—*

3 *(1) making United States citizenship instruction*
4 *and naturalization application services accessible to*
5 *low-income and other underserved lawful permanent*
6 *resident populations;*

7 *(2) developing, identifying, and sharing best*
8 *practices in United States citizenship preparation;*

9 *(3) supporting innovative and creative solutions*
10 *to barriers faced by those seeking naturalization;*

11 *(4) increasing the use of, and access to, tech-*
12 *nology in United States citizenship preparation pro-*
13 *grams;*

14 *(5) engaging receiving communities in the*
15 *United States citizenship and civic integration proc-*
16 *ess;*

17 *(6) administering the New Citizens Award Pro-*
18 *gram to recognize, in each calendar year, not more*
19 *than 10 United States citizens who—*

20 *(A) have made outstanding contributions to*
21 *the United States; and*

22 *(B) have been naturalized during the 10-*
23 *year period ending on the date of such recogni-*
24 *tion;*

25 *(7) fostering public education and awareness;*

1 (8) *coordinating its immigrant integration ef-*
2 *forts with the Office;*

3 (9) *awarding grants to eligible public or private*
4 *nonprofit organizations under section 2537; and*

5 (10) *awarding grants to State and local govern-*
6 *ments under section 2538.*

7 **SEC. 2535. COUNCIL OF DIRECTORS.**

8 (a) *MEMBERS.*—*To the extent consistent with section*
9 *501(c)(3) of the Internal Revenue Code of 1986, the Founda-*
10 *tion shall have a Council of Directors, which shall be com-*
11 *prised of—*

12 (1) *the Director of U.S. Citizenship and Immi-*
13 *gration Services;*

14 (2) *the Chief of the Office of Citizenship and New*
15 *Americans; and*

16 (3) *10 directors, appointed by the ex-officio di-*
17 *rectors designated in paragraphs (1) and (2), from*
18 *national community-based organizations that pro-*
19 *mote and assist permanent residents with naturaliza-*
20 *tion.*

21 (b) *APPOINTMENT OF EXECUTIVE DIRECTOR.*—*The*
22 *USCF Council shall appoint an Executive Director, who*
23 *shall oversee the day-to-day operations of the Foundation.*

1 **SEC. 2536. POWERS.**

2 *The Executive Director is authorized to carry out the*
3 *purposes set forth in section 2533 on behalf of the Founda-*
4 *tion by—*

5 (1) *accepting, holding, administering, investing,*
6 *and spending any gift, devise, or bequest of real or*
7 *personal property made to the Foundation;*

8 (2) *entering into contracts and other financial*
9 *assistance agreements with individuals, public or pri-*
10 *vate organizations, professional societies, and govern-*
11 *ment agencies to carry out the functions of the Foun-*
12 *dation;*

13 (3) *entering into such other contracts, leases, co-*
14 *operative agreements, and other transactions as the*
15 *Executive Director considers appropriate to carry out*
16 *the activities of the Foundation; and*

17 (4) *charging such fees for professional services*
18 *furnished by the Foundation as the Executive Direc-*
19 *tor determines reasonable and appropriate.*

20 **SEC. 2537. INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP**
21 **ASSISTANCE GRANT PROGRAM.**

22 (a) *AUTHORIZATION.—The Secretary, acting through*
23 *the Director of U.S. Citizenship and Immigration Services,*
24 *may award Initial Entry, Adjustment, and Citizenship As-*
25 *sistance grants to eligible public or private, nonprofit orga-*
26 *nizations.*

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1 **(b) USE OF GRANT FUNDS.**—*IEACA grants shall be*
2 *used for the design and implementation of programs that*
3 *provide direct assistance, within the scope of the authorized*
4 *practice of immigration law—*

5 *(1) to aliens who are preparing an initial appli-*
6 *cation for registered provisional immigrant status*
7 *under section 245B of the Immigration and Nation-*
8 *ality Act and to aliens who are preparing an initial*
9 *application for blue card status under section 2211,*
10 *including assisting applicants in—*

11 *(A) screening to assess prospective appli-*
12 *cants' potential eligibility or lack of eligibility;*

13 *(B) completing applications;*

14 *(C) gathering proof of identification, em-*
15 *ployment, residence, and tax payment;*

16 *(D) gathering proof of relationships of eligi-*
17 *ble family members;*

18 *(E) applying for any waivers for which ap-*
19 *plicants and qualifying family members may be*
20 *eligible; and*

21 *(F) any other assistance that the Secretary*
22 *or grantee considers useful to aliens who are in-*
23 *terested in applying for registered provisional*
24 *immigrant status;*

1 (2) *to aliens seeking to adjust their status under*
2 *section 245, 245B, 245C, or 245F of the Immigration*
3 *and Nationality Act;*

4 (3) *to legal permanent residents seeking to be-*
5 *come naturalized United States citizens; and*

6 (4) *to applicants on—*

7 (A) *the rights and responsibilities of United*
8 *States citizenship;*

9 (B) *civics-based English as a second lan-*
10 *guage;*

11 (C) *civics, with a special emphasis on com-*
12 *mon values and traditions of Americans, includ-*
13 *ing an understanding of the history of the*
14 *United States and the principles of the Constitu-*
15 *tion; and*

16 (D) *applying for United States citizenship.*

17 **SEC. 2538. PILOT PROGRAM TO PROMOTE IMMIGRANT INTE-**
18 **GRATION AT STATE AND LOCAL LEVELS.**

19 (a) *GRANTS AUTHORIZED.—The Chief shall establish*
20 *a pilot program through which the Chief may award grants,*
21 *on a competitive basis, to States and local governments or*
22 *other qualifying entities, in collaboration with State and*
23 *local governments—*

24 (1) *to establish New Immigrant Councils to*
25 *carry out programs to integrate new immigrants; or*

1 (2) *to carry out programs to integrate new im-*
2 *migrants.*

3 (b) *APPLICATION.—A State or local government desir-*
4 *ing a grant under this section shall submit an application*
5 *to the Chief at such time, in such manner, and containing*
6 *such information as the Chief may reasonably require, in-*
7 *cluding—*

8 (1) *a proposal to meet an objective or combina-*
9 *tion of objectives set forth in subsection (d)(3);*

10 (2) *the number of new immigrants in the appli-*
11 *cant’s jurisdiction; and*

12 (3) *a description of the challenges in introducing*
13 *and integrating new immigrants into the State or*
14 *local community.*

15 (c) *PRIORITY.—In awarding grants under this section,*
16 *the Chief shall give priority to States and local governments*
17 *or other qualifying entities that—*

18 (1) *use matching funds from non-Federal*
19 *sources, which may include in-kind contributions;*

20 (2) *demonstrate collaboration with public and*
21 *private entities to achieve the goals of the comprehen-*
22 *sive plan developed pursuant to subsection (d)(3);*

23 (3) *are 1 of the 10 States with the highest rate*
24 *of foreign-born residents; or*

1 (4) *have experienced a large increase in the pop-*
2 *ulation of immigrants during the most recent 10-year*
3 *period relative to past migration patterns, based on*
4 *data compiled by the Office of Immigration Statistics*
5 *or the United States Census Bureau.*

6 (d) *AUTHORIZED ACTIVITIES.—A grant awarded*
7 *under this subsection may be used—*

8 (1) *to form a New Immigrant Council, which*
9 *shall—*

10 (A) *consist of between 15 and 19 individ-*
11 *uals, inclusive, from the State, local government,*
12 *or qualifying organization;*

13 (B) *include, to the extent practicable, rep-*
14 *resentatives from—*

15 (i) *business;*

16 (ii) *faith-based organizations;*

17 (iii) *civic organizations;*

18 (iv) *philanthropic organizations;*

19 (v) *nonprofit organizations, including*
20 *those with legal and advocacy experience*
21 *working with immigrant communities;*

22 (vi) *key education stakeholders, such as*
23 *State educational agencies, local edu-*
24 *cational agencies, community colleges, and*
25 *teachers;*

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- 1 (vii) State adult education offices;
- 2 (viii) State or local public libraries;
- 3 and
- 4 (ix) State or local governments; and
- 5 (C) meet not less frequently than once each
- 6 quarter;
- 7 (2) to provide subgrants to local communities,
- 8 city governments, municipalities, nonprofit organiza-
- 9 tions (including veterans' and patriotic organiza-
- 10 tions), or other qualifying entities;
- 11 (3) to develop, implement, expand, or enhance a
- 12 comprehensive plan to introduce and integrate new
- 13 immigrants into the State by—
- 14 (A) improving English language skills;
- 15 (B) engaging caretakers with limited
- 16 English proficiency in their child's education
- 17 through interactive parent and child literacy ac-
- 18 tivities;
- 19 (C) improving and expanding access to
- 20 workforce training programs;
- 21 (D) teaching United States history, civics
- 22 education, citizenship rights, and responsibil-
- 23 ities;

1 (E) promoting an understanding of the
2 form of government and history of the United
3 States and the principles of the Constitution;

4 (F) improving financial literacy; and

5 (G) focusing on other key areas of impor-
6 tance to integration in our society; and

7 (4) to engage receiving communities in the citi-
8 zenship and civic integration process by—

9 (A) increasing local service capacity;

10 (B) building meaningful connections be-
11 tween newer immigrants and long-time resi-
12 dents;

13 (C) communicating the contributions of re-
14 ceiving communities and new immigrants; and

15 (D) engaging leaders from all sectors of the
16 community.

17 (e) REPORTING AND EVALUATION.—

18 (1) ANNUAL REPORT.—Each grant recipient
19 shall submit an annual report to the Office that de-
20 scribes—

21 (A) the activities undertaken by the grant
22 recipient, including how such activities meet the
23 goals of the Office, the Foundation, and the com-
24 prehensive plan described in subsection (d)(3);

25 (B) the geographic areas being served;

1 (C) *the number of immigrants in such*
2 *areas; and*

3 (D) *the primary languages spoken in such*
4 *areas.*

5 (2) *ANNUAL EVALUATION.—The Chief shall con-*
6 *duct an annual evaluation of the grant program es-*
7 *tablished under this section—*

8 (A) *to assess and improve the effectiveness*
9 *of such grant program;*

10 (B) *to assess the future needs of immigrants*
11 *and of State and local governments related to*
12 *immigrants; and*

13 (C) *to ensure that grantees recipients and*
14 *subgrantees are acting within the scope and pur-*
15 *pose of this subchapter.*

16 **SEC. 2539. NATURALIZATION CEREMONIES.**

17 (a) *IN GENERAL.—The Chief, in consultation with the*
18 *Director of the National Park Service, the Archivist of the*
19 *United States, and other appropriate Federal officials, shall*
20 *develop and implement a strategy to enhance the public*
21 *awareness of naturalization ceremonies.*

22 (b) *VENUES.—In developing the strategy under sub-*
23 *section (a), the Secretary shall consider the use of out-*
24 *standing and historic locations as venues for select natu-*
25 *ralization ceremonies.*

1 (c) *REPORTING REQUIREMENT.*—*The Secretary shall*
2 *annually submit a report to Congress that contains—*

3 (1) *the content of the strategy developed under*
4 *subsection (a); and*

5 (2) *the progress made towards the implementa-*
6 *tion of such strategy.*

7 **CHAPTER 3—FUNDING**

8 **SEC. 2541. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) *OFFICE OF CITIZENSHIP AND NEW AMERICANS.*—
10 *In addition to any amounts otherwise made available to*
11 *the Office, there are authorized to be appropriated to carry*
12 *out the functions described in section 451(f)(2) of the Home-*
13 *land Security Act of 2002 (6 U.S.C. 271(f)(2)), as amended*
14 *by section 2511(b)—*

15 (1) *\$10,000,000 for the 5-year period ending on*
16 *September 30, 2018; and*

17 (2) *such sums as may be necessary for fiscal year*
18 *2019 and subsequent fiscal years.*

19 (b) *GRANT PROGRAMS.*—*There are authorized to be*
20 *appropriated to implement the grant programs authorized*
21 *under sections 2537 and 2538, and to implement the strat-*
22 *egy under section 2539—*

23 (1) *\$100,000,000 for the 5-year period ending on*
24 *September 30, 2018; and*

1 (2) *such sums as may be necessary for fiscal year*
2 *2019 and subsequent fiscal years.*

3 **CHAPTER 4—REDUCE BARRIERS TO**
4 **NATURALIZATION**

5 **SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SENIOR**
6 **NEW AMERICANS.**

7 *Section 312 (8 U.S.C. 1423) is amended by striking*
8 *subsection (b) and inserting the following:*

9 “(b) *The requirements under subsection (a) shall not*
10 *apply to any person who—*

11 “(1) *is unable to comply with such requirements*
12 *because of physical or mental disability, including de-*
13 *velopmental or intellectual disability; or*

14 “(2) *on the date on which the person’s applica-*
15 *tion for naturalization is filed under section 334—*

16 “(A) *is older than 65 years of age; and*

17 “(B) *has been living in the United States*
18 *for periods totaling at least 5 years after being*
19 *lawfully admitted for permanent residence.*

20 “(c) *The requirement under subsection (a)(1) shall not*
21 *apply to any person who, on the date on which the person’s*
22 *application for naturalization is filed under section 334—*

23 “(1) *is older than 50 years of age and has been*
24 *living in the United States for periods totaling at*

1 *least 20 years after being lawfully admitted for per-*
2 *manent residence;*

3 “(2) *is older than 55 years of age and has been*
4 *living in the United States for periods totaling at*
5 *least 15 years after being lawfully admitted for per-*
6 *manent residence; or*

7 “(3) *is older than 60 years of age and has been*
8 *living in the United States for periods totaling at*
9 *least 10 years after being lawfully admitted for per-*
10 *manent residence.*

11 “(d) *The Secretary of Homeland Security may waive,*
12 *on a case-by-case basis, the requirement under subsection*
13 *(a)(2) on behalf of any person who, on the date on which*
14 *the person’s application for naturalization is filed under*
15 *section 334—*

16 “(1) *is older than 60 years of age; and*

17 “(2) *has been living in the United States for pe-*
18 *riods totaling at least 10 years after being lawfully*
19 *admitted for permanent residence.”.*

20 **SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REG-**
21 **ULAR INTERNET ACCESS.**

22 (a) *ELECTRONIC FILING NOT REQUIRED.—*

23 (1) *IN GENERAL.—The Secretary may not re-*
24 *quire that an applicant or petitioner for permanent*
25 *residence or citizenship of the United States use an*

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1 *electronic method to file any application, or access to*
2 *a customer account.*

3 (2) *SUNSET DATE.*—*This subsection shall cease*
4 *to be effective on October 1, 2020.*

5 (b) *NOTIFICATION REQUIREMENT.*—*Beginning on Oc-*
6 *tober 1, 2020, the Secretary may not require that an appli-*
7 *cant or petitioner for permanent residence or citizenship*
8 *of the United States use an electronic method to file any*
9 *application or access to a customer account unless the Sec-*
10 *retary notifies the Committee on the Judiciary of the Senate*
11 *and the Committee on the Judiciary of the House of Rep-*
12 *resentatives of such requirement not later than 30 days be-*
13 *fore the effective date of such requirement.*

14 **SEC. 2553. PERMISSIBLE USE OF ASSISTED HOUSING BY**
15 **BATTERED IMMIGRANTS.**

16 *Section 214 of the Housing and Community Develop-*
17 *ment Act of 1980 (42 U.S.C. 1436a) is amended—*

18 (1) *in subsection (a)—*

19 (A) *in paragraph (6), by striking “; or”*
20 *and inserting a semicolon;*

21 (B) *by redesignating paragraph (7) as*
22 *paragraph (8); and*

23 (C) *by inserting after paragraph (6) the fol-*
24 *lowing new paragraph:*

1 “(7) a qualified alien described in section 431(c)
 2 of the Personal Responsibility and Work Opportunity
 3 Reconciliation Act of 1996 (8 U.S.C. 1641(c)); or”;
 4 and

5 (2) in subsection (c)—

6 (A) in paragraph (1)(A), by striking “para-
 7 graphs (1) through (6)” and inserting “para-
 8 graphs (1) through (7)”;

9 (B) in paragraph (2)(A), by inserting
 10 “(other than a qualified alien described in sec-
 11 tion 431(c) of the Personal Responsibility and
 12 Work Opportunity Reconciliation Act of 1996 (8
 13 U.S.C. 1641(c))” after “any alien”.

14 **TITLE III—INTERIOR**
 15 **ENFORCEMENT**
 16 **Subtitle A—Employment**
 17 **Verification System**

18 **SEC. 3101. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED**
 19 **ALIENS.**

20 (a) *IN GENERAL.*—Section 274A (8 U.S.C. 1324a) is
 21 amended to read as follows:

22 **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

23 “(a) *MAKING EMPLOYMENT OF UNAUTHORIZED*
 24 *ALIENS UNLAWFUL.*—

1 “(1) *IN GENERAL.—It is unlawful for an em-*
2 *ployer—*

3 “(A) *to hire, recruit, or refer for a fee an*
4 *alien for employment in the United States know-*
5 *ing that the alien is an unauthorized alien with*
6 *respect to such employment; or*

7 “(B) *to hire, recruit, or refer for a fee for*
8 *employment in the United States an individual*
9 *without complying with the requirements under*
10 *subsections (c) and (d).*

11 “(2) *CONTINUING EMPLOYMENT.—*

12 “(A) *PROHIBITION ON CONTINUED EMPLOY-*
13 *MENT OF UNAUTHORIZED ALIENS.—It is unlaw-*
14 *ful for an employer, after hiring an alien for em-*
15 *ployment, to continue to employ the alien in the*
16 *United States knowing that the alien is (or has*
17 *become) an unauthorized alien with respect to*
18 *such employment.*

19 “(B) *PROHIBITION ON CONSIDERATION OF*
20 *PREVIOUS UNAUTHORIZED STATUS.—Nothing in*
21 *this section may be construed to prohibit the em-*
22 *ployment of an individual who is authorized for*
23 *employment in the United States if such indi-*
24 *vidual was previously an unauthorized alien.*

1 “(3) *USE OF LABOR THROUGH CONTRACT.*—For
2 *purposes of this section, any employer that uses a*
3 *contract, subcontract, or exchange to obtain the labor*
4 *of an alien in the United States while knowing that*
5 *the alien is an unauthorized alien with respect to per-*
6 *forming such labor shall be considered to have hired*
7 *the alien for employment in the United States in vio-*
8 *lation of paragraph (1)(A).*

9 “(4) *USE OF STATE EMPLOYMENT AGENCY DOCU-*
10 *MENTATION.*—For purposes of paragraphs (1)(B), (5),
11 *and (6), an employer shall be deemed to have com-*
12 *plied with the requirements under subsection (c) with*
13 *respect to the hiring of an individual who was re-*
14 *ferred for such employment by a State employment*
15 *agency (as defined by the Secretary) if the employer*
16 *has and retains (for the period and in the manner de-*
17 *scribed in subsection (c)(3)) appropriate documenta-*
18 *tion of such referral by such agency, certifying that*
19 *such agency has complied with the procedures de-*
20 *scribed in subsection (c) with respect to the individ-*
21 *ual’s referral. An employer that relies on a State*
22 *agency’s certification of compliance with subsection*
23 *(c) under this paragraph may utilize and retain the*
24 *State agency’s certification of compliance with the*

1 *procedures described in subsection (d), if any, in the*
2 *manner provided under this paragraph.*

3 *“(5) GOOD FAITH DEFENSE.—*

4 *“(A) DEFENSE.—An employer, person, or*
5 *entity that hires, employs, recruits, or refers in-*
6 *dividuals for employment in the United States,*
7 *or is otherwise obligated to comply with the re-*
8 *quirements under this section and establishes*
9 *good faith compliance with the requirements*
10 *under paragraphs (1) through (4) of subsection*
11 *(c) and subsection (d)—*

12 *“(i) has established an affirmative de-*
13 *fense that the employer, person, or entity*
14 *has not violated paragraph (1)(A) with re-*
15 *spect to hiring and employing; and*

16 *“(ii) has established compliance with*
17 *its obligations under subparagraph (A) and*
18 *(B) of paragraph (1) and subsection (c) un-*
19 *less the Secretary demonstrates that the em-*
20 *ployer had knowledge that an individuals*
21 *hired, employed, recruited, or referred by*
22 *the employer, person, or entity is an unau-*
23 *thorized alien.*

24 *“(B) EXCEPTION FOR CERTAIN EMPLOY-*
25 *ERS.—An employer who is not required to par-*

1 *ticipate in the System or who is participating in*
2 *the System on a voluntary basis pursuant to*
3 *subsection (d)(2)(J) has established an affirma-*
4 *tive defense under subparagraph (A) and need*
5 *not demonstrate compliance with the require-*
6 *ments under subsection (d).*

7 “(6) *GOOD FAITH COMPLIANCE.—*

8 “(A) *IN GENERAL.—Except as otherwise*
9 *provided in this subsection, an employer, person,*
10 *or entity is considered to have complied with a*
11 *requirement under this subsection notwith-*
12 *standing a technical or procedural failure to*
13 *meet such requirement if there was a good faith*
14 *attempt to comply with the requirement.*

15 “(B) *EXCEPTION IF FAILURE TO CORRECT*
16 *AFTER NOTICE.—Subparagraph (A) shall not*
17 *apply if—*

18 “(i) *the failure is not de minimis;*

19 “(ii) *the Secretary of Homeland Secu-*
20 *rity has explained to the employer, person,*
21 *or entity the basis for the failure and why*
22 *it is not de minimis;*

23 “(iii) *the employer, person, or entity*
24 *has been provided a period of not less than*

1 30 days (beginning after the date of the ex-
2 planation) to correct the failure; and

3 “(iv) the employer, person, or entity
4 has not corrected the failure voluntarily
5 within such period.

6 “(C) *EXCEPTION FOR PATTERN OR PRAC-*
7 *TICE VIOLATORS.*—Subparagraph (A) shall not
8 apply to an employer, person, or entity that has
9 engaged or is engaging in a pattern or practice
10 of violations of paragraph (1)(A) or (2).

11 “(7) *PRESUMPTION.*—After the date on which an
12 employer is required to participate in the System
13 under subsection (d), the employer is presumed to
14 have acted with knowledge for purposes of paragraph
15 (1)(A) if the employer hires, employs, recruits, or re-
16 fers an employee for a fee and fails to make an in-
17 quiry to verify the employment authorization status
18 of the employee through the System.

19 “(8) *CONTINUED APPLICATION OF WORKFORCE*
20 *AND LABOR PROTECTION REMEDIES DESPITE UNAU-*
21 *THORIZED EMPLOYMENT.*—

22 “(A) *IN GENERAL.*—Subject only to sub-
23 paragraph (B), all rights and remedies provided
24 under any Federal, State, or local law relating

1 to workplace rights, including but not limited to
2 back pay, are available to an employee despite—

3 “(i) the employee’s status as an unau-
4 thorized alien during or after the period of
5 employment; or

6 “(ii) the employer’s or employee’s fail-
7 ure to comply with the requirements of this
8 section.

9 “(B) **REINSTATEMENT.**—*Reinstatement*
10 shall be available to individuals who—

11 “(i) are authorized to work in the
12 United States at the time such relief is or-
13 dered or effectuated; or

14 “(ii) lost employment-authorized status
15 due to the unlawful acts of the employer
16 under this section.

17 “(b) **DEFINITIONS.**—*In this section:*

18 “(1) **COMMISSIONER.**—*The term ‘Commissioner’*
19 *means the Commissioner of Social Security.*

20 “(2) **DEPARTMENT.**—*Except as otherwise pro-*
21 *vided, the term ‘Department’ means the Department*
22 *of Homeland Security.*

23 “(3) **EMPLOYER.**—*The term ‘employer’ means*
24 *any person or entity, including an agency or depart-*
25 *ment of a Federal, State, or local government, an*

1 “(8) *WORKPLACE RIGHTS.*—*The term ‘workplace*
2 *rights’ means rights guaranteed under Federal, State,*
3 *or local labor or employment laws, including laws*
4 *concerning wages and hours, benefits and employment*
5 *standards, labor relations, workplace health and safe-*
6 *ty, work-related injuries, nondiscrimination, and re-*
7 *taliation for exercising rights under such laws.*

8 “(c) *DOCUMENT VERIFICATION REQUIREMENTS.*—*Any*
9 *employer hiring an individual for employment in the*
10 *United States shall comply with the following requirements*
11 *and the requirements under subsection (d) to verify that*
12 *the individual has employment authorized status.*

13 “(1) *ATTESTATION AFTER EXAMINATION OF DOC-*
14 *UMENTATION.*—

15 “(A) *IN GENERAL.*—

16 “(i) *EXAMINATION BY EMPLOYER.*—*An*
17 *employer shall attest, under penalty of per-*
18 *jury on a form prescribed by the Secretary,*
19 *that the employer has verified the identity*
20 *and employment authorization status of the*
21 *individual—*

22 “(I) *by examining—*

23 “(aa) *a document specified*
24 *in subparagraph (C); or*

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1 “(bb) a document specified in
2 subparagraph (D) and a docu-
3 ment specified in subparagraph
4 (E); and

5 “(II) by utilizing an identity au-
6 thentication mechanism described in
7 clause (iii) or (iv) of subparagraph
8 (F).

9 “(ii) PUBLICATION OF DOCUMENTS.—
10 The Secretary shall publish a picture of
11 each document specified in subparagraphs
12 (C) and (E) on the U.S. Citizenship and
13 Immigration Services website.

14 “(B) REQUIREMENTS.—

15 “(i) FORM.—The form referred to in
16 subparagraph (A)(i)—

17 “(I) shall be prescribed by the
18 Secretary not later than 6 months after
19 the date of the enactment of the Border
20 Security, Economic Opportunity, and
21 Immigration Modernization Act;

22 “(II) shall be available as—

23 “(aa) a paper form;

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1 “(bb) a form that may be
2 completed by an employer via
3 telephone or video conference;

4 “(cc) an electronic form; or

5 “(dd) a form that is inte-
6 grated electronically with the re-
7 quirements under subsection (d).

8 “(ii) *ATTESTATION.*—Each such form
9 shall require the employer to sign an attes-
10 tation with a handwritten, electronic, or
11 digital pin code signature, according to
12 standards prescribed by the Secretary.

13 “(iii) *COMPLIANCE.*—An employer has
14 complied with the requirements under this
15 paragraph with respect to examination of
16 the documents included in subclauses (I)
17 and (II) of subparagraph (A)(i) if—

18 “(I) the employer has, in good
19 faith, followed applicable regulations
20 and any written procedures or instruc-
21 tions provided by the Secretary; and

22 “(II) a reasonable person would
23 conclude that the documentation is
24 genuine and relates to the individual
25 presenting such documentation.

1 “(C) *DOCUMENTS ESTABLISHING IDENTITY*
2 *AND EMPLOYMENT AUTHORIZED STATUS.—A*
3 *document is specified in this subparagraph if the*
4 *document is unexpired (unless the validity of the*
5 *document is extended by law) and is 1 of the fol-*
6 *lowing:*

7 “(i) *A United States passport or pass-*
8 *port card issued to an individual pursuant*
9 *to the Secretary of State’s authority under*
10 *the Act entitled ‘An Act to regulate the issue*
11 *and validity of passports, and for other*
12 *purposes’, approved July 3, 1926 (22*
13 *U.S.C. 211a).*

14 “(ii) *A document issued to an alien ev-*
15 *idencing that the alien is lawfully admitted*
16 *for permanent residence or another docu-*
17 *ment issued to an individual evidencing the*
18 *individual’s employment authorized status,*
19 *as designated by the Secretary, if the docu-*
20 *ment—*

21 “(I) *contains a photograph of the*
22 *individual, or such other personal*
23 *identifying information relating to the*
24 *individual as the Secretary determines,*

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1 *by regulation, to be sufficient for the*
2 *purposes of this subparagraph;*

3 *“(II) is evidence of employment*
4 *authorized status; and*

5 *“(III) contains security features*
6 *to make the document resistant to tam-*
7 *pering, counterfeiting, and fraudulent*
8 *use.*

9 *“(iii) An enhanced driver’s license or*
10 *identification card issued to a national of*
11 *the United States by a State, an outlying*
12 *possession of the United States, or a feder-*
13 *ally recognized Indian tribe that—*

14 *“(I) meets the requirements under*
15 *section 202 of the REAL ID Act of*
16 *2005 (division B of Public Law 109–*
17 *13; 49 U.S.C. 30301 note); and*

18 *“(II) the Secretary has certified*
19 *by notice published in the Federal Reg-*
20 *ister and through appropriate notice*
21 *directly to employers registered in the*
22 *System 3 months prior to publication*
23 *that such enhanced license or card is*
24 *suitable for use under this subpara-*
25 *graph based upon the accuracy and se-*

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1 *curity of the issuance process, security*
2 *features on the document, and such*
3 *other factors as the Secretary may pre-*
4 *scribe.*

5 “(iv) *A passport issued by the appro-*
6 *priate authority of a foreign country accom-*
7 *panied by a Form I-94 or Form I-94A (or*
8 *similar successor record), or other docu-*
9 *mentation as designated by the Secretary*
10 *that specifies the individual’s status in the*
11 *United States and the duration of such sta-*
12 *tus if the proposed employment is not in*
13 *conflict with any restriction or limitation*
14 *specified on such form or documentation.*

15 “(v) *A passport issued by the Fed-*
16 *erated States of Micronesia or the Republic*
17 *of the Marshall Islands with evidence of*
18 *nonimmigrant admission to the United*
19 *States under the Compact of Free Associa-*
20 *tion between the United States and the Fed-*
21 *erated States of Micronesia or the Republic*
22 *of the Marshall Islands.*

23 “(D) *DOCUMENTS ESTABLISHING IDENTITY*
24 *OF INDIVIDUAL.—A document is specified in this*
25 *subparagraph if the document is unexpired (un-*

1 *less the validity of the document is extended by*
2 *law) and is 1 of the following:*

3 *“(i) A driver’s license or identity card*
4 *that is not described in subparagraph*
5 *(C)(iii) and is issued to an individual by a*
6 *State or an outlying possession of the*
7 *United States, a federally recognized Indian*
8 *tribe, or an agency (including military) of*
9 *the Federal Government if the driver’s li-*
10 *cence or identity card includes, at a min-*
11 *imum—*

12 *“(I) the individual’s photograph,*
13 *name, date of birth, gender, and driv-*
14 *er’s license or identification card num-*
15 *ber; and*

16 *“(II) security features to make the*
17 *license or card resistant to tampering,*
18 *counterfeiting, and fraudulent use.*

19 *“(ii) A voter registration card.*

20 *“(iii) A document that complies with*
21 *the requirements under section 7209(b)(1) of*
22 *the Intelligence Reform and Terrorism Pre-*
23 *vention Act of 2004 (Public Law 108–458;*
24 *8 U.S.C. 1185 note).*

1 “(iv) *For individuals under 18 years*
2 *of age who are unable to present a docu-*
3 *ment listed in clause (i) or (ii), documenta-*
4 *tion of personal identity of such other type*
5 *as the Secretary determines will provide a*
6 *reliable means of identification, which may*
7 *include an attestation as to the individual’s*
8 *identity by a parent or legal guardian*
9 *under penalty of perjury.*

10 “(E) *DOCUMENTS EVIDENCING EMPLOY-*
11 *MENT AUTHORIZATION.—A document is specified*
12 *in this subparagraph if the document is unex-*
13 *pired (unless the validity of the document is ex-*
14 *tended by law) and is 1 of the following:*

15 “(i) *A social security account number*
16 *card issued by the Commissioner, other than*
17 *a card which specifies on its face that the*
18 *card is not valid to evidence employment*
19 *authorized status or has other similar words*
20 *of limitation.*

21 “(ii) *Any other documentation evidenc-*
22 *ing employment authorized status that the*
23 *Secretary determines and publishes in the*
24 *Federal Register and through appropriate*
25 *notice directly to employers registered with-*

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1 *in the System to be acceptable for purposes*
2 *of this subparagraph if such documentation,*
3 *including any electronic security measures*
4 *linked to such documentation, contains se-*
5 *curity features to make such documentation*
6 *resistant to tampering, counterfeiting, and*
7 *fraudulent use.*

8 “(F) *IDENTITY AUTHENTICATION MECHA-*
9 *NISM.—*

10 “(i) *DEFINITIONS.—In this subpara-*
11 *graph:*

12 “(I) *COVERED IDENTITY DOCU-*
13 *MENT.—The term ‘covered identity*
14 *document’ means a valid—*

15 “(aa) *United States passport,*
16 *passport card, or a document evi-*
17 *dencing lawful permanent resi-*
18 *dence status or employment au-*
19 *thorized status issued to an alien;*

20 “(bb) *enhanced driver’s li-*
21 *cence or identity card issued by a*
22 *participating State or an out-*
23 *lying possession of the United*
24 *States; or*

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1 “(cc) photograph and appro-
2 priate identifying information
3 provided by the Secretary of State
4 pursuant to the granting of a
5 visa.

6 “(II) *PARTICIPATING STATE*.—
7 *The term ‘participating State’ means a*
8 *State that has an agreement with the*
9 *Secretary to provide the Secretary, for*
10 *purposes of identity verification in the*
11 *System, with photographs and appro-*
12 *priate identifying information main-*
13 *tained by the State.*

14 “(i) *REQUIREMENT FOR IDENTITY AU-*
15 *TENTICATION*.—*In addition to verifying*
16 *the documents specified in subparagraph*
17 *(C), (D), or (E) and utilizing the System*
18 *under subsection (d), each employer shall*
19 *use an identity authentication mechanism*
20 *described in clause (iii) or provided in*
21 *clause (iv) after it becomes available to*
22 *verify the identity of each individual the*
23 *employer seeks to hire.*

24 “(iii) *PHOTO TOOL*.—

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1 “(I) *USE REQUIREMENT.*—*An em-*
2 *ployer hiring an individual who has a*
3 *covered identity document shall verify*
4 *the identity of such individual using*
5 *the photo tool described in subclause*
6 *(II).*

7 “(II) *DEVELOPMENT REQUIRE-*
8 *MENT.*—*The Secretary shall develop*
9 *and maintain a photo tool that enables*
10 *employers to match the photo on a cov-*
11 *ered identity document provided to the*
12 *employer to a photo maintained by a*
13 *U.S. Citizenship and Immigration*
14 *Services database.*

15 “(iv) *ADDITIONAL SECURITY MEAS-*
16 *URES.*—

17 “(I) *USE REQUIREMENT.*—*An em-*
18 *ployer seeking to hire an individual*
19 *whose identity may not be verified*
20 *using the photo tool described in clause*
21 *(iii) shall verify the identity of such*
22 *individual using the additional secu-*
23 *rity measures described in subclause*
24 *(II).*

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1 “(II) *DEVELOPMENT REQUIRE-*
2 *MENT.—The Secretary shall develop,*
3 *after publication in the Federal Reg-*
4 *ister and an opportunity for public*
5 *comment, specific and effective addi-*
6 *tional security measures to adequately*
7 *verify the identity of an individual*
8 *whose identity may not be verified*
9 *using the photo tool described in clause*
10 *(iii). Such additional security meas-*
11 *ures—*

12 “(aa) *shall be kept up-to-date*
13 *with technological advances; and*

14 “(bb) *shall provide a means*
15 *of identity authentication in a*
16 *manner that provides a high level*
17 *of certainty as to the identity of*
18 *such individual, using immigra-*
19 *tion and identifying information*
20 *that may include review of iden-*
21 *tity documents or background*
22 *screening verification techniques*
23 *using publicly available informa-*
24 *tion.*

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1 “(G) *AUTHORITY TO PROHIBIT USE OF CER-*
2 *TAIN DOCUMENTS.—If the Secretary determines,*
3 *after publication in the Federal Register and an*
4 *opportunity for public comment, that any docu-*
5 *ment or class of documents specified in subpara-*
6 *graph (B), (C), or (D) does not reliably establish*
7 *identity or that employment authorized status is*
8 *being used fraudulently to an unacceptable de-*
9 *gree, the Secretary—*

10 “(i) *may prohibit or restrict the use of*
11 *such document or class of documents for*
12 *purposes of this subsection; and*

13 “(ii) *shall directly notify all employers*
14 *registered within the System of the prohibi-*
15 *tion through appropriate means.*

16 “(H) *AUTHORITY TO ALLOW USE OF CER-*
17 *TAIN DOCUMENTS.—If the Secretary has deter-*
18 *mined that another document or class of docu-*
19 *ments, such as a document issued by a federally*
20 *recognized Indian tribe, may be used to reliably*
21 *establish identity or employment authorized sta-*
22 *tus, the Secretary—*

23 “(i) *may allow the use of that docu-*
24 *ment or class of documents for purposes of*
25 *this subsection after publication in the Fed-*

1 *eral Register and an opportunity for public*
2 *comment;*

3 *“(ii) shall publish a description of any*
4 *such document or class of documents on the*
5 *U.S. Citizenship and Immigration Services*
6 *website; and*

7 *“(iii) shall directly notify all employ-*
8 *ers registered within the System of the addi-*
9 *tion through appropriate means.*

10 *“(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT*
11 *AUTHORIZATION.—An individual, upon commencing*
12 *employment with an employer, shall—*

13 *“(A) attest, under penalty of perjury, on the*
14 *form prescribed by the Secretary, that the indi-*
15 *vidual is—*

16 *“(i) a citizen of the United States;*

17 *“(ii) an alien lawfully admitted for*
18 *permanent residence;*

19 *“(iii) an alien who has employment*
20 *authorized status; or*

21 *“(iv) otherwise authorized by the Sec-*
22 *retary to be hired for such employment;*

23 *“(B) provide such attestation by a hand-*
24 *written, electronic, or digital pin code signature;*
25 *and*

1 “(C) *provide the individual’s social security*
2 *account number to the Secretary, unless the indi-*
3 *vidual has not yet been issued such a number, on*
4 *such form as the Secretary may require.*

5 “(3) *RETENTION OF VERIFICATION RECORD.—*

6 “(A) *IN GENERAL.—After completing a*
7 *form for an individual in accordance with para-*
8 *graphs (1) and (2), the employer shall retain a*
9 *version of such completed form and make such*
10 *form available for inspection by the Secretary or*
11 *the Office of Special Counsel for Immigration-*
12 *Related Unfair Employment Practices of the De-*
13 *partment of Justice during the period beginning*
14 *on the hiring date of the individual and ending*
15 *on the later of—*

16 “(i) *the date that is 3 years after such*
17 *hiring date; or*

18 “(ii) *the date that is 1 year after the*
19 *date on which the individual’s employment*
20 *with the employer is terminated.*

21 “(B) *REQUIREMENT FOR ELECTRONIC RE-*
22 *TENTION.—The Secretary—*

23 “(i) *shall permit an employer to retain*
24 *the form described in subparagraph (A) in*
25 *electronic form; and*

1 “(ii) shall permit an employer to re-
2 tain such form in paper, microfiche, micro-
3 film, portable document format, or other
4 media.

5 “(4) *COPYING OF DOCUMENTATION AND RECORD-*
6 *KEEPING.—The Secretary may promulgate regula-*
7 *tions regarding—*

8 “(A) copying documents and related infor-
9 mation pertaining to employment verification
10 presented by an individual under this subsection;
11 and

12 “(B) retaining such information during a
13 period not to exceed the required retention period
14 set forth in paragraph (3).

15 “(5) *PENALTIES.—An employer that fails to*
16 *comply with any requirement under this subsection*
17 *may be penalized under subsection (e)(4)(B).*

18 “(6) *PROTECTION OF CIVIL RIGHTS.—*

19 “(A) *IN GENERAL.—Nothing in this section*
20 *may be construed to diminish any rights other-*
21 *wise protected by Federal law.*

22 “(B) *PROHIBITION ON DISCRIMINATION.—*
23 *An employer shall use the procedures for docu-*
24 *ment verification set forth in this paragraph for*
25 *all employees without regard to race, color, reli-*

1 *gion, sex, national origin, or, unless specifically*
2 *permitted in this section, to citizenship status.*

3 “(7) *RECEIPTS.*—*The Secretary may authorize*
4 *the use of receipts for replacement documents, and*
5 *temporary evidence of employment authorization by*
6 *an individual to meet a documentation requirement*
7 *under this subsection on a temporary basis not to ex-*
8 *ceed 1 year, after which time the individual shall pro-*
9 *vide documentation sufficient to satisfy the docu-*
10 *mentation requirements under this subsection.*

11 “(8) *NO AUTHORIZATION OF NATIONAL IDENTI-*
12 *FICATION CARDS.*—*Nothing in this section may be*
13 *construed to directly or indirectly authorize the*
14 *issuance, use, or establishment of a national identi-*
15 *fication card.*

16 “(d) *EMPLOYMENT VERIFICATION SYSTEM.*—

17 “(1) *IN GENERAL.*—

18 “(A) *ESTABLISHMENT.*—*The Secretary, in*
19 *consultation with the Commissioner, shall estab-*
20 *lish the Employment Verification System.*

21 “(B) *MONITORING.*—*The Secretary shall*
22 *create the necessary processes to monitor—*

23 “(i) *the functioning of the System, in-*
24 *cluding the volume of the workflow, the*

1 *speed of processing of queries, the speed and*
2 *accuracy of responses;*

3 *“(ii) the misuse of the System, includ-*
4 *ing the prevention of fraud or identity theft;*

5 *“(iii) whether the use of the System re-*
6 *sults in wrongful adverse actions or dis-*
7 *crimination based upon a prohibited factor*
8 *against citizens or nationals of the United*
9 *States or individuals who have employment*
10 *authorized status; and*

11 *“(iv) the security, integrity, and pri-*
12 *vacy of the System.*

13 *“(C) PROCEDURES.—The Secretary—*

14 *“(i) shall create processes to provide an*
15 *individual with direct access to the individ-*
16 *ual’s case history in the System, includ-*
17 *ing—*

18 *“(I) the identities of all persons or*
19 *entities that have queried the indi-*
20 *vidual through the System;*

21 *“(II) the date of each such query;*
22 *and*

23 *“(III) the System response for*
24 *each such query; and*

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1 “(ii) *in consultation with the Commis-*
2 *sioner, shall develop—*

3 “(I) *protocols to notify an indi-*
4 *vidual, in a timely manner through*
5 *the use of electronic correspondence or*
6 *mail, that a query for the individual*
7 *has been processed through the System;*
8 *or*

9 “(II) *a process for the individual*
10 *to submit additional queries to the*
11 *System or notify the Secretary of po-*
12 *tential identity fraud.*

13 “(2) *PARTICIPATION REQUIREMENTS.—*

14 “(A) *FEDERAL GOVERNMENT.—Except as*
15 *provided in subparagraph (B), all agencies and*
16 *departments in the executive, legislative, or judi-*
17 *cial branches of the Federal Government shall*
18 *participate in the System beginning on the ear-*
19 *lier of—*

20 “(i) *the date of the enactment of the*
21 *Border Security, Economic Opportunity,*
22 *and Immigration Modernization Act, to the*
23 *extent required under section 402(e)(1) of*
24 *the Illegal Immigration Reform and Immig-*
25 *grant Responsibility Act of 1996 (division*

1 *C of Public Law 104–208; 8 U.S.C. 1324a)*
2 *and as already implemented by each agency*
3 *or department; or*

4 *“(i) the date that is 90 days after the*
5 *date of the enactment of the Border Secu-*
6 *rity, Economic Opportunity, and Immigra-*
7 *tion Modernization Act.*

8 *“(B) FEDERAL CONTRACTORS.—Federal*
9 *contractors shall participate in the System as*
10 *provided in the final rule relating to employ-*
11 *ment eligibility verification published in the*
12 *Federal Register on November 14, 2008 (73 Fed.*
13 *Reg. 67,651), or any similar subsequent regula-*
14 *tion, for which purpose references to E-Verify in*
15 *the final rule shall be construed to apply to the*
16 *System.*

17 *“(C) CRITICAL INFRASTRUCTURE.—*

18 *“(i) IN GENERAL.—Beginning on the*
19 *date that is 1 year after the date on which*
20 *regulations are published implementing this*
21 *subsection, the Secretary may authorize or*
22 *direct any employer, person, or entity re-*
23 *sponsible for granting access to, protecting,*
24 *securing, operating, administering, or regu-*
25 *lating part of the critical infrastructure (as*

1 *defined in section 1016(e) of the Critical In-*
2 *frastructure Protection Act of 2001 (42*
3 *U.S.C. 5195c(e)) to participate in the Sys-*
4 *tem to the extent the Secretary determines*
5 *that such participation will assist in the*
6 *protection of the critical infrastructure.*

7 “(i) *NOTIFICATION TO EMPLOYERS.—*
8 *The Secretary shall notify an employer re-*
9 *quired to participate in the System under*
10 *this subparagraph not later than 90 days*
11 *before the date on which the employer is re-*
12 *quired to participate.*

13 “(D) *EMPLOYERS WITH MORE THAN 5,000*
14 *EMPLOYEES.—Not later than 2 years after regu-*
15 *lations are published implementing this sub-*
16 *section, all employers with more than 5,000 em-*
17 *ployees shall participate in the System with re-*
18 *spect to all newly hired employees and employees*
19 *with expiring temporary employment authoriza-*
20 *tion documents.*

21 “(E) *EMPLOYERS WITH MORE THAN 500 EM-*
22 *PLOYEES.—Not later than 3 years after regula-*
23 *tions are published implementing this subsection,*
24 *all employers with more than 500 employees*
25 *shall participate in the System with respect to*

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1 *all newly hired employees and employees with*
2 *expiring temporary employment authorization*
3 *documents.*

4 “(F) *AGRICULTURAL EMPLOYMENT.*—*Not*
5 *later than 4 years after regulations are published*
6 *implementing this subsection, employers of em-*
7 *ployees performing agricultural employment (as*
8 *defined in section 218A of this Act and section*
9 *2202 of the Border Security, Economic Oppor-*
10 *tunity, and Immigration Modernization Act)*
11 *shall participate in the System with respect to*
12 *all newly hired employees and employees with*
13 *expiring temporary employment authorization*
14 *documents. An agricultural employee shall not be*
15 *counted for purposes of subparagraph (D) or*
16 *(E).*

17 “(G) *ALL EMPLOYERS.*—*Except as provided*
18 *in subparagraph (H), not later than 4 years*
19 *after regulations are published implementing*
20 *this subsection, all employers shall participate in*
21 *the System with respect to all newly hired em-*
22 *ployees and employees with expiring temporary*
23 *employment authorization documents.*

24 “(H) *TRIBAL GOVERNMENT EMPLOYERS.*—

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1 “(i) *RULEMAKING.*—*In developing reg-*
2 *ulations to implement this subsection, the*
3 *Secretary shall—*

4 “(I) *consider the effects of this sec-*
5 *tion on federally recognized Indian*
6 *tribes and tribal members; and*

7 “(II) *consult with the governments*
8 *of federally recognized Indian tribes.*

9 “(ii) *REQUIRED PARTICIPATION.*—*Not*
10 *later than 5 years after regulations are pub-*
11 *lished implementing this subsection, all em-*
12 *ployers owned by, or entities of, the govern-*
13 *ment of a federally recognized Indian tribe*
14 *shall participate in the System with respect*
15 *to all newly hired employees and employees*
16 *with expiring temporary employment au-*
17 *thorization documents.*

18 “(I) *IMMIGRATION LAW VIOLATORS.*—

19 “(i) *ORDERS FINDING VIOLATIONS.*—
20 *An order finding any employer to have vio-*
21 *lated this section or section 274C may, in*
22 *the Secretary’s discretion, require the em-*
23 *ployer to participate in the System with re-*
24 *spect to newly hired employees and employ-*
25 *ees with expiring temporary employment*

1 *authorization documents, if such employer*
2 *is not otherwise required to participate in*
3 *the System under this section. The Sec-*
4 *retary shall monitor such employer's com-*
5 *pliance with System procedures.*

6 “(ii) *PATTERN OR PRACTICE OF VIOLA-*
7 *TIONS.—The Secretary may require an em-*
8 *ployer that is required to participate in the*
9 *System with respect to newly hired employ-*
10 *ees to participate in the System with re-*
11 *spect to the employer's current employees if*
12 *the employer is determined by the Secretary*
13 *or other appropriate authority to have en-*
14 *gaged in a pattern or practice of violations*
15 *of the immigration laws of the United*
16 *States.*

17 “(J) *VOLUNTARY PARTICIPATION.—The Sec-*
18 *retary may permit any employer that is not re-*
19 *quired to participate in the System under this*
20 *section to do so on a voluntary basis.*

21 “(3) *CONSEQUENCE OF FAILURE TO PARTICI-*
22 *PATE.—*

23 “(A) *IN GENERAL.—Except as provided in*
24 *subparagraph (B), the failure, other than a de*
25 *minimis or inadvertent failure, of an employer*

1 *that is required to participate in the System to*
2 *comply with the requirements of the System with*
3 *respect to an individual—*

4 “(i) *shall be treated as a violation of*
5 *subsection (a)(1)(B) with respect to that in-*
6 *dividual; and*

7 “(ii) *creates a rebuttable presumption*
8 *that the employer has violated paragraph*
9 *(1)(A) or (2) of subsection (a).*

10 “(B) *EXCEPTION.—*

11 “(i) *IN GENERAL.—Subparagraph (A)*
12 *shall not apply in a criminal prosecution.*

13 “(ii) *USE AS EVIDENCE.—Nothing in*
14 *this paragraph may be construed to limit*
15 *the use in the prosecution of a Federal*
16 *crime, in a manner otherwise consistent*
17 *with Federal criminal law and procedure,*
18 *of evidence relating to the employer’s failure*
19 *to comply with requirements of the 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 Federal*
5 *Register, shall prescribe procedures that em-*
6 *ployers shall be required to follow to register*
7 *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 in-*
13 *quiries within the System, or on such other*
14 *schedule as the Secretary may prescribe.*

15 “(iii) *TRAINING.—The Secretary shall*
16 *require employers to undergo such training*
17 *as the Secretary determines to be necessary*
18 *to ensure proper use, protection of civil*
19 *rights and civil liberties, privacy, integrity,*
20 *and security of the System. To the extent*
21 *practicable, such training shall be made*
22 *available electronically on the U.S. Citizen-*
23 *ship and Immigration Services website.*

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1 “(iv) *NOTIFICATION TO EMPLOYEES.—*

2 *The employer shall inform individuals hired*

3 *for employment that the System—*

4 “*(I) will be used by the employer;*

5 “*(II) may be used for immigra-*

6 *tion enforcement purposes; and*

7 “*(III) may not be used to dis-*

8 *criminate or to take adverse action*

9 *against a national of the United States*

10 *or an alien who has employment au-*

11 *thorized status.*

12 “(v) *PROVISION OF ADDITIONAL INFOR-*

13 *MATION.—The employer shall obtain from*

14 *the individual (and the individual shall*

15 *provide) and shall record in such manner*

16 *as the Secretary may specify—*

17 “*(I) the individual’s social secu-*

18 *rity account number;*

19 “*(II) if the individual does not at-*

20 *test to United States citizenship or sta-*

21 *tus as a national of the United States*

22 *under subsection (c)(2), such identi-*

23 *fication or authorization number estab-*

24 *lished by the Department as the Sec-*

25 *retary shall specify; and*

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1 “(III) *such other information as*
2 *the Secretary may require to determine*
3 *the identity and employment author-*
4 *ization of an individual.*

5 “(vi) *PRESENTATION OF DOCUMENTA-*
6 *TION.—The employer, and the individual*
7 *whose identity and employment authorized*
8 *status are being confirmed, shall fulfill the*
9 *requirements under subsection (c).*

10 “(B) *SEEKING CONFIRMATION.—*

11 “(i) *IN GENERAL.—An employer shall*
12 *use the System to confirm the identity and*
13 *employment authorized status of any indi-*
14 *vidual during—*

15 “(I) *the period beginning on the*
16 *date on which the individual accepts*
17 *an offer of employment and ending 3*
18 *business days after the date on which*
19 *employment begins; or*

20 “(II) *such other reasonable period*
21 *as the Secretary may prescribe.*

22 “(ii) *LIMITATION.—An employer may*
23 *not make the starting date of an individ-*
24 *ual’s employment or training or any other*
25 *term and condition of employment depend-*

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1 *ent on the receipt of a confirmation of iden-*
2 *tity and employment authorized status by*
3 *the System.*

4 “(iii) *REVERIFICATION.*—*If an indi-*
5 *vidual has a limited period of employment*
6 *authorized status, the individual’s employer*
7 *shall reverify such status through the Sys-*
8 *tem not later than 3 business days after the*
9 *last day of such period.*

10 “(iv) *OTHER EMPLOYMENT.*—*For em-*
11 *ployers directed by the Secretary to partici-*
12 *pate in the System under paragraph*
13 *(2)(C)(i) to protect critical infrastructure or*
14 *otherwise specified circumstances in this*
15 *section to verify their entire workforce, the*
16 *System may be used for initial verification*
17 *of an individual who was hired before the*
18 *employer became subject to the System, and*
19 *the employer shall initiate all required pro-*
20 *cedures on or before such date as the Sec-*
21 *retary shall specify.*

22 “(v) *NOTIFICATION.*—

23 “(I) *IN GENERAL.*—*The Secretary*
24 *shall provide, and the employer shall*
25 *utilize, as part of the System, a method*

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1 “(cc) establish procedures to
2 directly notify the individual and
3 the employer of a confirmation.

4 “(III) IMPLEMENTATION.—The
5 Secretary may provide for a phased-in
6 implementation of the notification re-
7 quirements under this clause, as ap-
8 propriate. The notification system
9 shall cover all inquiries not later than
10 1 year from the date of the enactment
11 of the Border Security, Economic Op-
12 portunity, and Immigration Mod-
13 ernization Act.

14 “(C) CONFIRMATION OR NONCONFIRMA-
15 TION.—

16 “(i) INITIAL RESPONSE.—

17 “(I) IN GENERAL.—Except as pro-
18 vided in subclause (II), the System
19 shall provide—

20 “(aa) a confirmation of an
21 individual’s identity and employ-
22 ment authorized status or a fur-
23 ther action notice at the time of
24 the inquiry; and

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1 “(bb) *an appropriate code*
2 *indicating such confirmation or*
3 *such further action notice.*

4 “(II) *ALTERNATIVE DEADLINE.—*
5 *If the System is unable to provide im-*
6 *mediate confirmation or further action*
7 *notice for technological reasons or due*
8 *to unforeseen circumstances, the Sys-*
9 *tem shall provide a confirmation or*
10 *further action notice not later than 3*
11 *business days after the initial inquiry.*

12 “(ii) *CONFIRMATION UPON INITIAL IN-*
13 *QUIRY.—If the employer receives an appro-*
14 *priate confirmation of an individual’s iden-*
15 *tity and employment authorized status*
16 *under the System, the employer shall record*
17 *the confirmation in such manner as the*
18 *Secretary may specify.*

19 “(iii) *FURTHER ACTION NOTICE AND*
20 *LATER CONFIRMATION OR NONCONFIRMA-*
21 *TION.—*

22 “(I) *NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS*
23 *REQUIRED.—Not later than 3 business*
24 *days after an employer receives a fur-*
25

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1 *ther action notice of an individual's*
2 *identity or employment eligibility*
3 *under the System, or during such other*
4 *reasonable time as the Secretary may*
5 *prescribe, the employer shall notify the*
6 *individual for whom the confirmation*
7 *is sought of the further action notice*
8 *and any procedures specified by the*
9 *Secretary for addressing such notice.*
10 *The further action notice shall be given*
11 *to the individual in writing and the*
12 *employer shall acknowledge in the Sys-*
13 *tem under penalty of perjury that it*
14 *provided the employee with the further*
15 *action notice. The individual shall af-*
16 *firmatively acknowledge in writing, or*
17 *in such other manner as the Secretary*
18 *may specify, the receipt of the further*
19 *action notice from the employer. If the*
20 *individual refuses to acknowledge the*
21 *receipt of the further action notice, or*
22 *acknowledges in writing that the indi-*
23 *vidual will not contest the further ac-*
24 *tion notice under subclause (II), the*
25 *employer shall notify the Secretary in*

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1 *such manner as the Secretary may*
2 *specify.*

3 “(II) *CONTEST.*—*Not later than*
4 *10 business days after receiving notifi-*
5 *cation of a further action notice under*
6 *subclause (I), the individual shall con-*
7 *tact the appropriate Federal agency*
8 *and, if the Secretary so requires, ap-*
9 *pear in person for purposes of*
10 *verifying the individual’s identity and*
11 *employment eligibility. The Secretary,*
12 *in consultation with the Commissioner*
13 *and other appropriate Federal agen-*
14 *cies, shall specify an available sec-*
15 *ondary verification procedure to con-*
16 *firm the validity of information pro-*
17 *vided and to provide a confirmation or*
18 *nonconfirmation. Any procedures for*
19 *reexamination shall not limit in any*
20 *way an employee’s right to appeal a*
21 *nonconfirmation.*

22 “(III) *NO CONTEST.*—*If the indi-*
23 *vidual refuses to acknowledge receipt of*
24 *the further action notice, acknowledges*
25 *that the individual will not contest the*

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1 *adverse impacts to the employer, and*
2 *including time to permit the indi-*
3 *vidual to obtain and provide needed*
4 *evidence of identity or employment eli-*
5 *gibility, the Secretary shall extend the*
6 *period for providing confirmation or*
7 *nonconfirmation for stated periods be-*
8 *yond 10 business days. When con-*
9 *firmation or nonconfirmation is pro-*
10 *vided, the confirmation system shall*
11 *provide an appropriate code indicating*
12 *such confirmation or nonconfirmation.*

13 “(V) *REEXAMINATION.*—*Nothing*
14 *in this section shall prevent the Sec-*
15 *retary from establishing procedures to*
16 *reexamine a case where a confirmation*
17 *or nonconfirmation has been provided*
18 *if subsequently received information*
19 *indicates that the confirmation or non-*
20 *confirmation may not have been cor-*
21 *rect. Any procedures for reexamination*
22 *shall not limit in any way an employ-*
23 *ee’s right to appeal a nonconfirmation.*

24 “(VI) *EMPLOYEE PROTECTIONS.*—
25 *An employer may not terminate em-*

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1 *ployment or take any other adverse ac-*
2 *tion against an individual solely be-*
3 *cause of a failure of the individual to*
4 *have identity and employment eligi-*
5 *bility confirmed under this subsection*
6 *until—*

7 *“(aa) a nonconfirmation has*
8 *been issued;*

9 *“(bb) if the further action no-*
10 *tice was contested, the period to*
11 *timely file an administrative ap-*
12 *peal has expired without an ap-*
13 *peal or the contestation to the fur-*
14 *ther action notice is withdrawn;*
15 *or*

16 *“(cc) if an appeal before an*
17 *administrative law judge under*
18 *paragraph (7) has been filed, the*
19 *nonconfirmation has been upheld*
20 *or the appeal has been withdrawn*
21 *or dismissed.*

22 *“(iv) NOTICE OF NONCONFIRMATION.—*
23 *Not later than 3 business days after an em-*
24 *ployer receives a nonconfirmation, or dur-*
25 *ing such other reasonable time as the Sec-*

1 *retary may provide, the employer shall no-*
2 *tify the individual who is the subject of the*
3 *nonconfirmation, and provide information*
4 *about filing an administrative appeal pur-*
5 *suant to paragraph (6) and a request for a*
6 *hearing before an administrative law judge*
7 *pursuant to paragraph (7). The noncon-*
8 *firmation notice shall be given to the indi-*
9 *vidual in writing and the employer shall*
10 *acknowledge in the System under penalty of*
11 *perjury that it provided the notice (or ade-*
12 *quately attempted to provide notice, but was*
13 *unable to do so despite reasonable efforts).*
14 *The individual shall affirmatively acknowl-*
15 *edge in writing, or in such other manner as*
16 *the Secretary may prescribe, the receipt of*
17 *the nonconfirmation notice from the em-*
18 *ployer. If the individual refuses or fails to*
19 *acknowledge the receipt of the nonconfirma-*
20 *tion notice, the employer shall notify the*
21 *Secretary in such manner as the Secretary*
22 *may prescribe.*

23 *“(D) CONSEQUENCES OF NONCONFIRMA-*
24 *TION.—*

1 “(i) *TERMINATION OF CONTINUED EM-*
2 *PLOYMENT.—Except as provided in clause*
3 *(iii), an employer that has received a non-*
4 *confirmation regarding an individual and*
5 *has made reasonable efforts to notify the in-*
6 *dividual in accordance with subparagraph*
7 *(C)(iv) shall terminate the employment of*
8 *the individual upon the expiration of the*
9 *time period specified in paragraph (7).*

10 “(ii) *CONTINUED EMPLOYMENT AFTER*
11 *NONCONFIRMATION.—If the employer con-*
12 *tinues to employ an individual after receiv-*
13 *ing nonconfirmation and exhaustion of all*
14 *appeals or expiration of all rights to appeal*
15 *if not appealed, in violation of clause (i), a*
16 *rebuttable presumption is created that the*
17 *employer has violated paragraphs (1)(A)*
18 *and (2) of subsection (a). Such presumption*
19 *shall not apply in any prosecution under*
20 *subsection (k)(1).*

21 “(iii) *EFFECT OF ADMINISTRATIVE AP-*
22 *PEAL OR REVIEW BY ADMINISTRATIVE LAW*
23 *JUDGE.—If an individual files an adminis-*
24 *trative appeal of the nonconfirmation with-*
25 *in the time period specified in paragraph*

1 (6)(A), or files for review with an adminis-
2 trative law judge specified in paragraph
3 (7)(A), the employer shall not terminate the
4 individual's employment under this sub-
5 paragraph prior to the resolution of the ad-
6 ministrative appeal unless the Secretary or
7 Commissioner terminates the stay under
8 paragraph (6)(B) or (7)(B).

9 “(iv) WEEKLY REPORT.—The Director
10 of U.S. Citizenship and Immigration Serv-
11 ices shall submit a weekly report to the As-
12 sistant Secretary for Immigration and Cus-
13 toms Enforcement that includes, for each in-
14 dividual who receives final nonconfirmation
15 through the System—

16 “(I) the name of such individual;

17 “(II) his or her social security
18 number or alien file number;

19 “(III) the name and contact infor-
20 mation for his or her current employer;
21 and

22 “(IV) any other critical informa-
23 tion that the Assistant Secretary deter-
24 mines to be appropriate.

1 “(E) *OBLIGATION TO RESPOND TO QUERIES*
2 *AND ADDITIONAL INFORMATION.—*

3 “(i) *IN GENERAL.—Employers shall*
4 *comply with requests for information from*
5 *the Secretary and the Special Counsel for*
6 *Immigration-Related Unfair Employment*
7 *Practices of the Department of Justice, in-*
8 *cluding queries concerning current and*
9 *former employees, within the time frame*
10 *during which records are required to be*
11 *maintained under this section regarding*
12 *such former employees, if such information*
13 *relates to the functioning of the System, the*
14 *accuracy of the responses provided by the*
15 *System, or any suspected misuse, discrimi-*
16 *nation, fraud, or identity theft in the use of*
17 *the System. Failure to comply with a re-*
18 *quest under this clause constitutes a viola-*
19 *tion of subsection (a)(1)(B).*

20 “(ii) *ACTION BY INDIVIDUALS.—*

21 “(I) *IN GENERAL.—Individuals*
22 *being verified through the System may*
23 *be required to take further action to*
24 *address questions identified by the Sec-*
25 *retary or the Commissioner regarding*

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1 *the documents relied upon for purposes*
2 *of subsection (c).*

3 *“(II) NOTIFICATION.—Not later*
4 *than 3 business days after the receipt*
5 *of such questions regarding an indi-*
6 *vidual, or during such other reasonable*
7 *time as the Secretary may prescribe,*
8 *the employer shall—*

9 *“(aa) notify the individual of*
10 *any such requirement for further*
11 *actions; and*

12 *“(bb) record the date and*
13 *manner of such notification.*

14 *“(III) ACKNOWLEDGMENT.—The*
15 *individual shall acknowledge the notifi-*
16 *cation received from the employer*
17 *under subclause (II) in writing, or in*
18 *such other manner as the Secretary*
19 *may prescribe.*

20 *“(iii) RULEMAKING.—*

21 *“(I) IN GENERAL.—The Secretary,*
22 *in consultation with the Commissioner*
23 *and the Attorney General, is author-*
24 *ized to issue regulations implementing,*

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1 *clarifying, and supplementing the re-*
2 *quirements under this subparagraph—*

3 *“(aa) to facilitate the func-*
4 *tioning, accuracy, and fairness of*
5 *the System;*

6 *“(bb) to prevent misuse, dis-*
7 *crimination, fraud, or identity*
8 *theft in the use of the System; or*

9 *“(cc) to protect and main-*
10 *tain the confidentiality of infor-*
11 *mation that could be used to lo-*
12 *cate or otherwise place at risk of*
13 *harm victims of domestic violence,*
14 *dating violence, sexual assault,*
15 *stalking, and human trafficking,*
16 *and of the applicant or bene-*
17 *ficiary of any petition described*
18 *in section 384(a)(2) of the Illegal*
19 *Immigration Reform and Immi-*
20 *grant Responsibility Act of 1996*
21 *(8 U.S.C. 1367(a)(2)).*

22 *“(II) NOTICE.—The regulations*
23 *issued under subclause (I) shall be—*

24 *“(aa) published in the Fed-*
25 *eral Register; and*

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1 “(bb) provided directly to all
2 employers registered in the Sys-
3 tem.

4 “(F) DESIGNATED AGENTS.—The Secretary
5 shall establish a process—

6 “(i) for certifying, on an annual basis
7 or at such times as the Secretary may pre-
8 scribe, designated agents and other System
9 service providers seeking access to the Sys-
10 tem to perform verification queries on be-
11 half of employers, based upon training,
12 usage, privacy, and security standards pre-
13 scribed by the Secretary;

14 “(ii) for ensuring that designated
15 agents and other System service providers
16 are subject to monitoring to the same extent
17 as direct access users; and

18 “(iii) for establishing standards for
19 certification of electronic I–9 programs.

20 “(G) REQUIREMENT TO PROVIDE INFORMA-
21 TION.—

22 “(i) IN GENERAL.—No later than 3
23 months after the date of the enactment of
24 the Border Security, Economic Oppor-
25 tunity, and Immigration Modernization

1 *Act, the Secretary, in consultation with the*
2 *Secretary of Labor, the Secretary of Agri-*
3 *culture, the Commissioner, the Attorney*
4 *General, the Equal Employment Oppor-*
5 *tunity Commission, and the Administrator*
6 *of the Small Business Administration, shall*
7 *commence a campaign to disseminate infor-*
8 *mation respecting the procedures, rights,*
9 *and remedies prescribed under this section.*

10 “(i) *CAMPAIGN REQUIREMENTS.—The*
11 *campaign authorized under clause (i)—*

12 “(I) *shall be aimed at increasing*
13 *the knowledge of employers, employees,*
14 *and the general public concerning em-*
15 *ployer and employee rights, respon-*
16 *sibilities, and remedies under this sec-*
17 *tion; and*

18 “(II) *shall be coordinated with the*
19 *public education campaign conducted*
20 *by U.S. Citizenship and Immigration*
21 *Services.*

22 “(iii) *ASSESSMENT.—The Secretary*
23 *shall assess the success of the campaign in*
24 *achieving the goals of the campaign.*

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1 “(iv) *AUTHORITY TO CONTRACT.*—*In*
2 *order to carry out and assess the campaign*
3 *under this subparagraph, the Secretary*
4 *may, to the extent deemed appropriate and*
5 *subject to the availability of appropriations,*
6 *contract with public and private organiza-*
7 *tions for outreach and assessment activities*
8 *under the campaign.*

9 “(v) *AUTHORIZATION OF APPROPRIA-*
10 *TIONS.*—*There are authorized to be appro-*
11 *priated to carry out this paragraph*
12 *\$40,000,000 for each of the fiscal years 2014*
13 *through 2016.*

14 “(H) *AUTHORITY TO MODIFY INFORMATION*
15 *REQUIREMENTS.*—*Based on a regular review of*
16 *the System and the document verification proce-*
17 *dures to identify misuse or fraudulent use and to*
18 *assess the security of the documents and processes*
19 *used to establish identity or employment author-*
20 *ized status, the Secretary, in consultation with*
21 *the Commissioner, after publication of notice in*
22 *the Federal Register and an opportunity for*
23 *public comment, may modify, if the Secretary*
24 *determines that the modification is necessary to*
25 *ensure that the System accurately and reliably*

1 *determines the identity and employment author-*
2 *ized status of employees and maintain existing*
3 *protections against misuse, discrimination,*
4 *fraud, and identity theft—*

5 *“(i) the information that shall be pre-*
6 *sented to the employer by an individual;*

7 *“(ii) the information that shall be pro-*
8 *vided to the System by the employer; and*

9 *“(iii) the procedures that shall be fol-*
10 *lowed by employers with respect to the proc-*
11 *ess of verifying an individual through the*
12 *System.*

13 *“(I) SELF-VERIFICATION.—Subject to ap-*
14 *propriate safeguards to prevent misuse of the*
15 *system, the Secretary, in consultation with the*
16 *Commissioner, shall establish a secure self-*
17 *verification procedure to permit an individual*
18 *who seeks to verify the individual’s own employ-*
19 *ment eligibility to contact the appropriate agen-*
20 *cy and, in a timely manner, correct or update*
21 *the information contained in the System.*

22 *“(5) PROTECTION FROM LIABILITY FOR ACTIONS*
23 *TAKEN ON THE BASIS OF INFORMATION PROVIDED BY*
24 *THE SYSTEM.—An employer shall not be liable to a*
25 *job applicant, an employee, the Federal Government,*

1 *or a State or local government, under Federal, State,*
2 *or local criminal or civil law for any employment-re-*
3 *lated action taken with respect to a job applicant or*
4 *employee in good faith reliance on information pro-*
5 *vided by the System.*

6 *“(6) ADMINISTRATIVE APPEAL.—*

7 *“(A) IN GENERAL.—An individual who is*
8 *notified of a nonconfirmation may, not later*
9 *than 10 business days after the date that such*
10 *notice is received, file an administrative appeal*
11 *of such nonconfirmation with the Commissioner*
12 *if the notice is based on records maintained by*
13 *the Commissioner, or in any other case, with the*
14 *Secretary. An individual who did not timely*
15 *contest a further action notice timely received by*
16 *that individual for which the individual ac-*
17 *knowledged receipt may not be granted a review*
18 *under this paragraph.*

19 *“(B) ADMINISTRATIVE STAY OF NONCON-*
20 *FIRMATION.—The nonconfirmation shall be auto-*
21 *matically stayed upon the timely filing of an ad-*
22 *ministrative appeal, unless the nonconfirmation*
23 *resulted after the individual acknowledged re-*
24 *ceipt of the further action notice but failed to*
25 *contact the appropriate agency within the time*

1 *provided. The stay shall remain in effect until*
2 *the resolution of the appeal, unless the Secretary*
3 *or the Commissioner terminates the stay based*
4 *on a determination that the administrative ap-*
5 *peal is frivolous or filed for purposes of delay.*

6 “(C) *REVIEW FOR ERROR.—The Secretary*
7 *and the Commissioner shall develop procedures*
8 *for resolving administrative appeals regarding*
9 *nonconfirmations based upon the information*
10 *that the individual has provided, including any*
11 *additional evidence or argument that was not*
12 *previously considered. Any such additional evi-*
13 *dence or argument shall be filed within 10 busi-*
14 *ness days of the date the appeal was originally*
15 *filed. Appeals shall be resolved within 20 busi-*
16 *ness days after the individual has submitted all*
17 *evidence and arguments the individual wishes to*
18 *submit, or has stated in writing that there is no*
19 *additional evidence that the individual wishes to*
20 *submit. The Secretary and the Commissioner*
21 *may, on a case by case basis for good cause, ex-*
22 *tend the filing and submission period in order to*
23 *ensure accurate resolution of an appeal before*
24 *the Secretary or the Commissioner.*

1 “(D) *PREPONDERANCE OF EVIDENCE.*—Ad-
2 ministrative appeal under this paragraph shall
3 be limited to whether a nonconfirmation notice
4 is supported by a preponderance of the evidence.

5 “(E) *DAMAGES, FEES, AND COSTS.*—No
6 money damages, fees or costs may be awarded in
7 the administrative appeal process under this
8 paragraph.

9 “(7) *REVIEW BY ADMINISTRATIVE LAW JUDGE.*—

10 “(A) *IN GENERAL.*—Not later than 30 days
11 after the date an individual receives a final de-
12 termination on an administrative appeal under
13 paragraph (6), the individual may obtain review
14 of such determination by filing a complaint with
15 a Department of Justice administrative law
16 judge in accordance with this paragraph.

17 “(B) *STAY OF NONCONFIRMATION.*—The
18 nonconfirmation related to such final determina-
19 tion shall be automatically stayed upon the time-
20 ly filing of a complaint under this paragraph,
21 and the stay shall remain in effect until the reso-
22 lution of the complaint, unless the administra-
23 tive law judge determines that the action is friv-
24 olous or filed for purposes of delay.

1 “(C) *SERVICE.*—*The respondent to com-*
2 *plaint filed under this paragraph is either the*
3 *Secretary or the Commissioner, but not both, de-*
4 *pending upon who issued the administrative*
5 *order under paragraph (6). In addition to serv-*
6 *ing the respondent, the plaintiff shall serve the*
7 *Attorney General.*

8 “(D) *AUTHORITY OF ADMINISTRATIVE LAW*
9 *JUDGE.*—

10 “(i) *RULES OF PRACTICE.*—*The Sec-*
11 *retary shall promulgate regulations regard-*
12 *ing the rules of practice in appeals brought*
13 *pursuant to this subsection.*

14 “(ii) *AUTHORITY OF ADMINISTRATIVE*
15 *LAW JUDGE.*—*The administrative law judge*
16 *shall have power to—*

17 “(I) *terminate a stay of a noncon-*
18 *firmation under subparagraph (B) if*
19 *the administrative law judge deter-*
20 *mines that the action is frivolous or*
21 *filed for purposes of delay;*

22 “(II) *adduce evidence at a hear-*
23 *ing;*

24 “(III) *compel by subpoena the at-*
25 *tendance of witnesses and the produc-*

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1 *tion of evidence at any designated*
2 *place or hearing;*

3 *“(IV) resolve claims of identity*
4 *theft; and*

5 *“(V) enter, upon the pleadings*
6 *and any evidence adduced at a hear-*
7 *ing, a decision affirming or reversing*
8 *the result of the agency, with or with-*
9 *out remanding the cause for a rehear-*
10 *ing.*

11 *“(iii) SUBPOENA.—In case of contu-*
12 *macy or refusal to obey a subpoena lawfully*
13 *issued under this section and upon applica-*
14 *tion of the administrative law judge, an ap-*
15 *propriate district court of the United States*
16 *may issue an order requiring compliance*
17 *with such subpoena and any failure to obey*
18 *such order may be punished by such court*
19 *as a contempt of such court.*

20 *“(iv) TRAINING.—An administrative*
21 *law judge hearing cases shall have special*
22 *training respecting employment authorized*
23 *status verification.*

24 *“(E) ORDER BY ADMINISTRATIVE LAW*
25 *JUDGE.—*

1 “(i) *IN GENERAL.*—*The administrative*
2 *law judge shall issue and cause to be served*
3 *to the parties in the proceeding an order*
4 *which may be appealed as provided in sub-*
5 *paragraph (G).*

6 “(ii) *CONTENTS OF ORDER.*—*Such an*
7 *order shall uphold or reverse the final deter-*
8 *mination on the request for reconsideration*
9 *and order lost wages and other appropriate*
10 *remedies as provided in subparagraph (F).*

11 “(F) *COMPENSATION FOR ERROR.*—

12 “(i) *IN GENERAL.*—*In cases in which*
13 *the administrative law judge reverses the*
14 *final determination of the Secretary or the*
15 *Commissioner made under paragraph (6),*
16 *and the administrative law judge finds*
17 *that—*

18 “(I) *the nonconfirmation was due*
19 *to gross negligence or intentional mis-*
20 *conduct of the employer, the adminis-*
21 *trative law judge may order the em-*
22 *ployer to pay the individual lost*
23 *wages, and reasonable costs and attor-*
24 *neys’ fees incurred during administra-*
25 *tive and judicial review; or*

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1 “(II) *such final determination*
2 *was erroneous by reason of the neg-*
3 *ligence of the Secretary or the Commis-*
4 *sioner, the administrative law judge*
5 *may order the Secretary or the Com-*
6 *missioner to pay the individual lost*
7 *wages, and reasonable costs and attor-*
8 *neys’ fees incurred during the adminis-*
9 *trative appeal and the administrative*
10 *law judge review.*

11 “(ii) *CALCULATION OF LOST WAGES.—*
12 *Lost wages shall be calculated based on the*
13 *wage rate and work schedule that prevailed*
14 *prior to termination. The individual shall*
15 *be compensated for wages lost beginning on*
16 *the first scheduled work day after employ-*
17 *ment was terminated and ending 120 days*
18 *after completion of the administrative law*
19 *judge’s review described in this paragraph*
20 *or the day after the individual is reinstated*
21 *or obtains employment elsewhere, whichever*
22 *occurs first. If the individual obtains em-*
23 *ployment elsewhere at a lower wage rate,*
24 *the individual shall be compensated for the*
25 *difference in wages for the period ending*

1 *120 days after completion of the adminis-*
2 *trative law judge review process. No lost*
3 *wages shall be awarded for any period of*
4 *time during which the individual was not*
5 *in employment authorized status.*

6 *“(iii) PAYMENT OF COMPENSATION.—*
7 *Notwithstanding any other law, payment of*
8 *compensation for lost wages, costs, and at-*
9 *torneys’ fees under this paragraph, or com-*
10 *promise settlements of the same, shall be*
11 *made as provided by section 1304 of title*
12 *31, United States Code. Appropriations*
13 *made available to the Secretary or the Com-*
14 *missioner, accounts provided for under sec-*
15 *tion 286, and funds from the Federal Old-*
16 *Age and Survivors Insurance Trust Fund*
17 *or the Federal Disability Insurance Trust*
18 *Fund shall not be available to pay such*
19 *compensation.*

20 *“(G) APPEAL.—No later than 45 days after*
21 *the entry of such final order, any person ad-*
22 *versely affected by such final order may seek re-*
23 *view of such order in the United States Court of*
24 *Appeals for the circuit in which the violation is*

1 *alleged to have occurred or in which the em-*
2 *ployer resides or transacts business.*

3 “(8) *MANAGEMENT OF THE SYSTEM.*—

4 “(A) *IN GENERAL.*—*The Secretary is au-*
5 *thorized to establish, manage, and modify the*
6 *System, which shall—*

7 “(i) *respond to inquiries made by par-*
8 *ticipating employers at any time through*
9 *the internet, or such other means as the Sec-*
10 *retary may designate, concerning an indi-*
11 *vidual’s identity and whether the individual*
12 *is in employment authorized status;*

13 “(ii) *maintain records of the inquiries*
14 *that were made, of confirmations provided*
15 *(or not provided), and of the codes provided*
16 *to employers as evidence of their compliance*
17 *with their obligations under the System;*
18 *and*

19 “(iii) *provide information to, and re-*
20 *quire action by, employers and individuals*
21 *using the System.*

22 “(B) *DESIGN AND OPERATION OF SYS-*
23 *TEM.*—*The System shall be designed and oper-*
24 *ated—*

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1 “(i) to maximize its reliability and
2 ease of use by employers consistent with
3 protecting the privacy and security of the
4 underlying information, and ensuring full
5 notice of such use to employees;

6 “(ii) to maximize its ease of use by em-
7 ployees, including direct notification of its
8 use, of results, and ability to challenge re-
9 sults;

10 “(iii) to respond accurately to all in-
11 quiries made by employers on whether indi-
12 viduals are authorized to be employed and
13 to register any times when the system is un-
14 able to receive inquiries;

15 “(iv) to maintain appropriate admin-
16 istrative, technical, and physical safeguards
17 to prevent unauthorized disclosure of per-
18 sonal information, misuse by employers and
19 employees, and discrimination;

20 “(v) to require regularly scheduled re-
21 fresher training of all users of the System to
22 ensure compliance with all procedures;

23 “(vi) to allow for auditing of the use of
24 the System to detect misuse, discrimination,
25 fraud, and identity theft, to protect privacy

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1 *and assess System accuracy, and to preserve*
2 *the integrity and security of the informa-*
3 *tion in all of the System, including—*

4 “*(I) to develop and use tools and*
5 *processes to detect or prevent fraud and*
6 *identity theft, such as multiple uses of*
7 *the same identifying information or*
8 *documents to fraudulently gain em-*
9 *ployment;*

10 “*(II) to develop and use tools and*
11 *processes to detect and prevent misuse*
12 *of the system by employers and em-*
13 *ployees;*

14 “*(III) to develop tools and proc-*
15 *esses to detect anomalies in the use of*
16 *the system that may indicate potential*
17 *fraud or misuse of the system;*

18 “*(IV) to audit documents and in-*
19 *formation submitted by employees to*
20 *employers, including authority to con-*
21 *duct interviews with employers and*
22 *employees, and obtain information*
23 *concerning employment from the em-*
24 *ployer;*

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1 “(vii) to confirm identity and employ-
2 ment authorization through verification and
3 comparison of records as determined nec-
4 essary by the Secretary;

5 “(viii) to confirm electronically the
6 issuance of the employment authorization or
7 identity document and—

8 “(I) if such photograph is avail-
9 able, to display the digital photograph
10 that the issuer placed on the document
11 so that the employer can compare the
12 photograph displayed to the photo-
13 graph on the document presented by
14 the employee; or

15 “(II) if a photograph is not avail-
16 able from the issuer, to confirm the au-
17 thenticity of the document using such
18 alternative procedures as the Secretary
19 may specify; and

20 “(ix) to provide appropriate notifica-
21 tion directly to employers registered with
22 the System of all changes made by the Sec-
23 retary or the Commissioner related to al-
24 lowed and prohibited documents, and use of
25 the System.

1 “(C) *SAFEGUARDS TO THE SYSTEM.*—

2 “*(i) REQUIREMENT TO DEVELOP.*—*The*
3 *Secretary, in consultation with the Commis-*
4 *sioner and other appropriate Federal and*
5 *State agencies, shall develop policies and*
6 *procedures to ensure protection of the pri-*
7 *vacy and security of personally identifiable*
8 *information and identifiers contained in the*
9 *records accessed or maintained by the Sys-*
10 *tem. The Secretary, in consultation with the*
11 *Commissioner and other appropriate Fed-*
12 *eral and State agencies, shall develop and*
13 *deploy appropriate privacy and security*
14 *training for the Federal and State employ-*
15 *ees accessing the records under the System.*

16 “*(ii) PRIVACY AUDITS.*—*The Secretary,*
17 *acting through the Chief Privacy Officer of*
18 *the Department, shall conduct regular pri-*
19 *vacy audits of the policies and procedures*
20 *established under clause (i), including any*
21 *collection, use, dissemination, and mainte-*
22 *nance of personally identifiable information*
23 *and any associated information technology*
24 *systems, as well as scope of requests for this*
25 *information. The Chief Privacy Officer shall*

1 *review the results of the audits and rec-*
2 *ommend to the Secretary any changes nec-*
3 *essary to improve the privacy protections of*
4 *the program.*

5 “(iii) *ACCURACY AUDITS.*—

6 “(I) *IN GENERAL.*—*Not later than*
7 *November 30 of each year, the Inspec-*
8 *tor General of the Department of*
9 *Homeland Security shall submit a re-*
10 *port to the Secretary, with a copy to*
11 *the President of the Senate and the*
12 *Speaker of the House of Representa-*
13 *tives, that sets forth the error rate of*
14 *the System for the previous fiscal year*
15 *and the assessments required to be sub-*
16 *mitted by the Secretary under sub-*
17 *paragraphs (A) and (B) of paragraph*
18 *(10). The report shall describe in detail*
19 *the methodology employed for purposes*
20 *of the report, and shall make rec-*
21 *ommendations for how error rates may*
22 *be reduced.*

23 “(II) *ERROR RATE DEFINED.*—*In*
24 *this clause, the term ‘error rate’ means*

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1 *the percentage determined by divid-*
2 *ing—*

3 *“(aa) the number of employ-*
4 *ment authorized individuals who*
5 *received further action notices,*
6 *contested such notices, and were*
7 *subsequently found to be employ-*
8 *ment authorized; by*

9 *“(bb) the number of System*
10 *inquiries submitted for employ-*
11 *ment authorized individuals.*

12 *“(III) REDUCTION OF PENALTIES*
13 *FOR RECORDKEEPING OR VERIFICATION*
14 *PRACTICES FOLLOWING PERSISTENT*
15 *SYSTEM INACCURACIES.—Notwith-*
16 *standing subsection (e)(4)(C)(i), in*
17 *any calendar year following a report*
18 *by the Inspector General under sub-*
19 *clause (I) that the System had an error*
20 *rate higher than 0.3 percent for the*
21 *previous fiscal year, the civil penalty*
22 *assessable by the Secretary or an ad-*
23 *ministrative law judge under that sub-*
24 *section for each first-time violation by*
25 *an employer who has not previously*

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1 *been penalized under this section may*
2 *not exceed \$1,000.*

3 *“(iv) RECORDS SECURITY PROGRAM.—*
4 *Any person, including a private third party*
5 *vendor, who retains document verification*
6 *or System data pursuant to this section*
7 *shall implement an effective records security*
8 *program that—*

9 *“(I) ensures that only authorized*
10 *personnel have access to document*
11 *verification or System data; and*

12 *“(II) ensures that whenever such*
13 *data is created, completed, updated,*
14 *modified, altered, or corrected in elec-*
15 *tronic format, a secure and permanent*
16 *record is created that establishes the*
17 *date of access, the identity of the indi-*
18 *vidual who accessed the electronic*
19 *record, and the particular action*
20 *taken.*

21 *“(v) RECORDS SECURITY PROGRAM.—*
22 *In addition to the security measures de-*
23 *scribed in clause (iv), a private third party*
24 *vendor who retains document verification or*
25 *System data pursuant to this section shall*

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1 *implement an effective records security pro-*
2 *gram that—*

3 “(I) *provides for backup and re-*
4 *covery of any records maintained in*
5 *electronic format to protect against in-*
6 *formation loss, such as power interrup-*
7 *tions; and*

8 “(II) *ensures that employees are*
9 *trained to minimize the risk of unau-*
10 *thorized or accidental alteration or*
11 *erasure of such data in electronic for-*
12 *mat.*

13 “(vi) *AUTHORIZED PERSONNEL DE-*
14 *FINED.—In this subparagraph, the term*
15 *‘authorized personnel’ means anyone reg-*
16 *istered as a System user, or anyone with*
17 *partial or full responsibility for completion*
18 *of employment authorization verification or*
19 *retention of data in connection with em-*
20 *ployment authorization verification on be-*
21 *half of an employer.*

22 “(D) *AVAILABLE FACILITIES AND ALTER-*
23 *NATIVE ACCOMMODATIONS.—The Secretary shall*
24 *make appropriate arrangements and develop*
25 *standards to allow employers or employees, in-*

1 *cluding remote hires, who are otherwise unable to*
2 *access the System to use electronic and telephonic*
3 *formats (including video conferencing, scanning*
4 *technology, and other available technologies),*
5 *Federal Government facilities, public facilities,*
6 *or other available locations in order to utilize the*
7 *System.*

8 “(E) *RESPONSIBILITIES OF THE SEC-*
9 *RETARY.—*

10 “(i) *IN GENERAL.—As part of the Sys-*
11 *tem, the Secretary shall maintain a reliable,*
12 *secure method, which, operating through the*
13 *System and within the time periods speci-*
14 *fied, compares the name, alien identifica-*
15 *tion or authorization number, or other in-*
16 *formation as determined relevant by the*
17 *Secretary, provided in an inquiry against*
18 *such information maintained or accessed by*
19 *the Secretary in order to confirm (or not*
20 *confirm) the validity of the information*
21 *provided, the correspondence of the name*
22 *and number, whether the alien has employ-*
23 *ment authorized status (or, to the extent*
24 *that the Secretary determines to be feasible*
25 *and appropriate, whether the records avail-*

1 able to the Secretary verify the identity or
2 status of a national of the United States),
3 and such other information as the Secretary
4 may prescribe.

5 “(ii) *PHOTOGRAPH DISPLAY.*—As part
6 of the System, the Secretary shall establish
7 a reliable, secure method, which, operating
8 through the System, displays the digital
9 photograph described in subparagraph
10 (B)(viii)(I).

11 “(iii) *TIMING OF NOTICES.*—The Sec-
12 retary shall have authority to prescribe
13 when a confirmation, nonconfirmation, or
14 further action notice shall be issued.

15 “(iv) *USE OF INFORMATION.*—The Sec-
16 retary shall perform regular audits under
17 the System, as described in subparagraph
18 (B)(vi) and shall utilize the information ob-
19 tained from such audits, as well as any in-
20 formation obtained from the Commissioner
21 pursuant to part E of title XI of the Social
22 Security Act (42 U.S.C. 1301 et seq.), for
23 the purposes of this section and to admin-
24 ister and enforce the immigration laws.

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1 “(vi) *ALLOWING PARENTS TO PREVENT*
2 *THEFT OF THEIR CHILD’S IDENTITY.—The*
3 *Secretary, in consultation with the Commis-*
4 *sioner, shall establish a program that pro-*
5 *vides a reliable, secure method by which*
6 *parents or legal guardians may suspend or*
7 *limit the use of the social security account*
8 *number or other identifying information of*
9 *a minor under their care for the purposes of*
10 *the System. The Secretary may implement*
11 *the program on a limited pilot program*
12 *basis before making it fully available to all*
13 *individuals.*

14 “(vii) *PROTECTION FROM MULTIPLE*
15 *USE.—The Secretary and the Commissioner*
16 *shall establish a procedure for identifying*
17 *and handling a situation in which a social*
18 *security account number has been identified*
19 *to be subject to unusual multiple use in the*
20 *System or is otherwise suspected or deter-*
21 *mined to have been compromised by iden-*
22 *tity fraud.*

23 “(viii) *MONITORING AND COMPLIANCE*
24 *UNIT.—The Secretary shall establish or des-*
25 *ignate a monitoring and compliance unit to*

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1 *detect and reduce identity fraud and other*
2 *misuse of the System.*

3 “(ix) *CIVIL RIGHTS AND CIVIL LIB-*
4 *ERTIES ASSESSMENTS.—*

5 “(I) *REQUIREMENT TO CON-*
6 *DUCT.—The Secretary shall conduct*
7 *regular civil rights and civil liberties*
8 *assessments of the System, including*
9 *participation by employers, other pri-*
10 *rate entities, and Federal, State, and*
11 *local government entities.*

12 “(II) *REQUIREMENT TO RE-*
13 *SPOND.—Employers, other private en-*
14 *tities, and Federal, State, and local en-*
15 *tities shall timely respond to any re-*
16 *quest in connection with such an as-*
17 *essment.*

18 “(III) *ASSESSMENT AND REC-*
19 *OMMENDATIONS.—The Officer for Civil*
20 *Rights and Civil Liberties of the De-*
21 *partment shall review the results of*
22 *each such assessment and recommend*
23 *to the Secretary any changes necessary*
24 *to improve the civil rights and civil*
25 *liberties protections of the System.*

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1 “(F) *GRANTS TO STATES.*—

2 “(i) *IN GENERAL.*—*The Secretary shall*
3 *create and administer a grant program to*
4 *help provide funding for States that*
5 *grant—*

6 “(I) *the Secretary access to driv-*
7 *er’s license information as needed to*
8 *confirm that a driver’s license pre-*
9 *sented under subsection (c)(1)(D)(i)*
10 *confirms the identity of the subject of*
11 *the System check, and that a driver’s*
12 *license matches the State’s records; 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 that*
24 *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 Secretary*
8 *access to passport and visa information as need-*
9 *ed to confirm that a passport, passport card, or*
10 *visa presented under subsection (c)(1)(C) con-*
11 *firms the identity of the subject of the System*
12 *check, and that a passport, passport card, or*
13 *visa photograph matches the Secretary of State’s*
14 *records, and shall provide such assistance as the*
15 *Secretary may request in order to resolve further*
16 *action notices or nonconfirmations relating to*
17 *such information.*

18 “(H) *UPDATING INFORMATION.—The Com-*
19 *missioner, the Secretary, and the Secretary of*
20 *State shall update their information in a man-*
21 *ner that promotes maximum accuracy and shall*
22 *provide a process for the prompt correction of er-*
23 *roneous information.*

24 “(9) *LIMITATION ON USE OF THE SYSTEM.—Not-*
25 *withstanding any other provision of law, nothing in*

1 *this subsection may be construed to permit or allow*
2 *any department, bureau, or other agency of the*
3 *United States Government or any other entity to uti-*
4 *lize any information, database, or other records as-*
5 *sembled under this subsection for any purpose other*
6 *than for employment verification or to ensure secure,*
7 *appropriate and nondiscriminatory use of the Sys-*
8 *tem.*

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 Congress*
13 *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 of*
18 *further action notices and other System notices*
19 *provided by employers to individuals who are*
20 *authorized to be employed in the United States.*

21 *“(B) An assessment of the accuracy rates of*
22 *further action notices and other System notices*
23 *provided directly (by the System) in a timely*
24 *fashion to individuals who are not authorized to*
25 *be employed in the United States.*

1 “(C) *An assessment of any challenges faced*
2 *by small employers in utilizing the System.*

3 “(D) *An assessment of the rate of employer*
4 *noncompliance (in addition to failure to provide*
5 *required notices in a timely fashion) in each of*
6 *the following categories:*

7 “(i) *Taking adverse action based on a*
8 *further action notice.*

9 “(ii) *Use of the System for non-*
10 *employees or other individuals before they*
11 *are offered employment.*

12 “(iii) *Use of the System to reverify em-*
13 *ployment authorized status of current em-*
14 *ployees except if authorized to do so.*

15 “(iv) *Use of the System selectively, ex-*
16 *cept in cases in which such use is author-*
17 *ized.*

18 “(v) *Use of the System to deny employ-*
19 *ment or post-employment benefits or other-*
20 *wise interfere with labor rights.*

21 “(vi) *Requiring employees or appli-*
22 *cants to use any self-verification feature or*
23 *to provide self-verification results.*

24 “(vii) *Discouraging individuals who*
25 *receive a further action notice from chal-*

1 *lenging the further action notice or appeal-*
2 *ing a determination made by the System.*

3 *“(E) An assessment of the rate of employee*
4 *noncompliance in each of the following cat-*
5 *egories:*

6 *“(i) Obtaining employment when un-*
7 *authorized with an employer complying*
8 *with the System in good faith.*

9 *“(ii) Failure to provide required docu-*
10 *ments in a timely manner.*

11 *“(iii) Attempting to use fraudulent*
12 *documents or documents not related to the*
13 *individual.*

14 *“(iv) Misuse of the administrative ap-*
15 *peal and judicial review process.*

16 *“(F) An assessment of the amount of time*
17 *taken for—*

18 *“(i) the System to provide the con-*
19 *firmation or further action notice;*

20 *“(ii) individuals to contest further ac-*
21 *tion notices;*

22 *“(iii) the System to provide a con-*
23 *firmation or nonconfirmation of a contested*
24 *further action notice;*

1 “(iv) individuals to file an adminis-
2 trative appeal of a nonconfirmation; and

3 “(v) resolving administrative appeals
4 regarding nonconfirmations.

5 “(11) ANNUAL GAO STUDY AND REPORT.—

6 “(A) REQUIREMENT.—The Comptroller
7 General shall, for each year, undertake a study
8 to evaluate the accuracy, efficiency, integrity,
9 and impact of the System.

10 “(B) REPORT.—Not later than 18 months
11 after the promulgation of regulations to imple-
12 ment this subsection, and yearly thereafter, the
13 Comptroller General shall submit to Congress a
14 report containing the findings of the study car-
15 ried out under this paragraph. Each such report
16 shall include, at a minimum, the following:

17 “(i) An assessment of System perform-
18 ance with respect to the rate at which indi-
19 viduals who are eligible for employment in
20 the United States are correctly approved
21 within the required periods, including a
22 separate assessment of such rate for natu-
23 ralized United States citizens, nationals of
24 the United States, and aliens.

1 “(ii) *An assessment of the privacy and*
2 *confidentiality of the System and of the*
3 *overall security of the System with respect*
4 *to cybertheft and theft or misuse of private*
5 *data.*

6 “(iii) *An assessment of whether the*
7 *System is being implemented in a manner*
8 *that is not discriminatory or used for retal-*
9 *iation against employees.*

10 “(iv) *An assessment of the most com-*
11 *mon causes for the erroneous issuance of*
12 *nonconfirmations by the System and rec-*
13 *ommendations to correct such causes.*

14 “(v) *The recommendations of the*
15 *Comptroller General regarding System im-*
16 *provements.*

17 “(vi) *An assessment of the frequency*
18 *and magnitude of changes made to the Sys-*
19 *tem and the impact on the ability for em-*
20 *ployers to comply in good faith.*

21 “(vii) *An assessment of the direct and*
22 *indirect costs incurred by employers in*
23 *complying with the System, including costs*
24 *associated with retaining potential employ-*

1 *ees through the administrative appeals proc-*
2 *ess and receiving a nonconfirmation.*

3 *“(viii) An assessment of any backlogs*
4 *or delays in the System providing the con-*
5 *firmation or further action notice and im-*
6 *pacts to hiring by employers.*

7 *“(e) COMPLIANCE.—*

8 *“(1) COMPLAINTS AND INVESTIGATIONS.—The*
9 *Secretary shall establish procedures—*

10 *“(A) for individuals and entities to file*
11 *complaints respecting potential violations of sub-*
12 *sections (a) or (f)(1);*

13 *“(B) for the investigation of those com-*
14 *plaints which the Secretary deems appropriate to*
15 *investigate; and*

16 *“(C) for providing notification to the Spe-*
17 *cial Counsel for Immigration-Related Unfair*
18 *Employment Practices of the Department of Jus-*
19 *tice of potential violations of section 274B.*

20 *“(2) AUTHORITY IN INVESTIGATIONS.—In con-*
21 *ducting investigations and proceedings under this*
22 *subsection—*

23 *“(A) immigration officers shall have reason-*
24 *able access to examine evidence of the employer*
25 *being investigated;*

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1 “(ii) immigration law enforcement of-
2 ficers;

3 “(iii) personnel of the Office of Special
4 Counsel for Immigration-Related Unfair
5 Employment Practices of the Department of
6 Justice;

7 “(iv) personnel of the Office for Civil
8 Rights and Civil Liberties of the Depart-
9 ment; and

10 “(v) personnel of Office of Inspector
11 General of the Social Security Administra-
12 tion.

13 “(3) COMPLIANCE PROCEDURES.—

14 “(A) PRE-PENALTY NOTICE.—If the Sec-
15 retary has reasonable cause to believe that there
16 has been a civil violation of this section in the
17 previous 3 years, the Secretary shall issue to the
18 employer concerned a written notice of the De-
19 partment’s intention to issue a claim for a mon-
20 etary or other penalty. Such pre-penalty notice
21 shall—

22 “(i) describe the violation;

23 “(ii) specify the laws and regulations
24 allegedly violated;

1 “(iii) disclose the material facts which
2 establish the alleged violation;

3 “(iv) describe the penalty sought to be
4 imposed; and

5 “(v) inform such employer that such
6 employer shall have a reasonable oppor-
7 tunity to make representations as to why a
8 monetary or other penalty should not be im-
9 posed.

10 “(B) *EMPLOYER’S RESPONSE.*—Whenever
11 any employer receives written pre-penalty notice
12 of a fine or other penalty in accordance with
13 subparagraph (A), the employer may, within 60
14 days from receipt of such notice, file with the
15 Secretary its written response to the notice. The
16 response may include any relevant evidence or
17 proffer of evidence that the employer wishes to
18 present with respect to whether the employer vio-
19 lated this section and whether, if so, the penalty
20 should be mitigated, and shall be filed and con-
21 sidered in accordance with procedures to be es-
22 tablished by the Secretary.

23 “(C) *RIGHT TO A HEARING.*—Before
24 issuance of an order imposing a penalty on any
25 employer, person, or entity, the employer, person,

1 *or entity shall be entitled to a hearing before an*
2 *administrative law judge, if requested within 60*
3 *days of the notice of penalty. The hearing shall*
4 *be held at the nearest location practicable to the*
5 *place where the employer, person, or entity re-*
6 *sides or of the place where the alleged violation*
7 *occurred.*

8 “(D) *ISSUANCE OF ORDERS.*—*If no hearing*
9 *is so requested, the Secretary’s imposition of the*
10 *order shall constitute a final and unappealable*
11 *order. If a hearing is requested and the adminis-*
12 *trative law judge determines, upon clear and*
13 *convincing evidence received, that there was a*
14 *violation, the administrative law judge shall*
15 *issue the final determination with a written pen-*
16 *alty claim. The penalty claim shall specify all*
17 *charges in the information provided under*
18 *clauses (i) through (iii) of subparagraph (A) and*
19 *any mitigation of the penalty that the adminis-*
20 *trative law judge deems appropriate under para-*
21 *graph (4)(E).*

22 “(4) *CIVIL PENALTIES.*—

23 “(A) *HIRING OR CONTINUING TO EMPLOY*
24 *UNAUTHORIZED ALIENS.*—*Any employer that*

1 *violates any provision of subsection (a)(1)(A) or*
2 *(a)(2) shall—*

3 *“(i) pay a civil penalty of not less*
4 *than \$3,500 and not more than \$7,500 for*
5 *each unauthorized alien with respect to*
6 *which each violation of either subsection*
7 *(a)(1)(A) or (a)(2) occurred;*

8 *“(ii) if the employer has previously*
9 *been fined as a result of a previous enforce-*
10 *ment action or previous violation under this*
11 *paragraph, pay a civil penalty of not less*
12 *than \$5,000 and not more than \$15,000 for*
13 *each unauthorized alien with respect to*
14 *which a violation of either subsection*
15 *(a)(1)(A) or (a)(2) occurred; and*

16 *“(iii) if the employer has previously*
17 *been fined more than once under this para-*
18 *graph, pay a civil penalty of not less than*
19 *\$10,000 and not more than \$25,000 for each*
20 *unauthorized alien with respect to which a*
21 *violation of either subsection (a)(1)(A) or*
22 *(a)(2) occurred.*

23 *“(B) ENHANCED PENALTIES.—After the*
24 *Secretary certifies to Congress that the System*
25 *has been established, implemented, and made*

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1 *mandatory for use by all employers in the*
2 *United States, the Secretary may establish an*
3 *enhanced civil penalty for an employer who—*

4 *“(i) fails to query the System to verify*
5 *the identify and work authorized status of*
6 *an individual; and*

7 *“(ii) violates a Federal, State, or local*
8 *law related to—*

9 *“(I) the payment of wages;*

10 *“(II) hours worked by employees;*

11 *or*

12 *“(III) workplace health and safe-*
13 *ty.*

14 *“(C) RECORDKEEPING OR VERIFICATION*
15 *PRACTICES.—Any employer that violates or fails*
16 *to comply with any requirement under sub-*
17 *section (a)(1)(B), other than a minor or inad-*
18 *vertent failure, as determined by the Secretary,*
19 *shall pay a civil penalty of—*

20 *“(i) not less than \$500 and not more*
21 *than \$2,000 for each violation;*

22 *“(ii) if an employer has previously*
23 *been fined under this paragraph, not less*
24 *than \$1,000 and not more than \$4,000 for*
25 *each violation; and*

1 “(iii) if an employer has previously
2 been fined more than once under this para-
3 graph, not less than \$2,000 and not more
4 than \$8,000 for each violation.

5 “(D) OTHER PENALTIES.—The Secretary
6 may impose additional penalties for violations,
7 including cease and desist orders, specially de-
8 signed compliance plans to prevent further viola-
9 tions, suspended fines to take effect in the event
10 of a further violation, and in appropriate cases,
11 the remedy provided by paragraph (f)(2).

12 “(E) MITIGATION.—The Secretary or, if an
13 employer requests a hearing, the administrative
14 law judge, is authorized, upon such terms and
15 conditions as the Secretary or administrative
16 law judge deems reasonable and just and in ac-
17 cordance with such procedures as the Secretary
18 may establish or any procedures established gov-
19 erning the administrative law judge’s assessment
20 of penalties, to reduce or mitigate penalties im-
21 posed upon employers, based upon factors in-
22 cluding, the employer’s hiring volume, compli-
23 ance history, good-faith implementation of a
24 compliance program, the size and level of sophis-
25 tication of the employer, and voluntary disclo-

1 *sure of violations of this subsection to the Sec-*
2 *retary. The Secretary or administrative law*
3 *judge shall not mitigate a penalty below the*
4 *minimum penalty provided by this section, ex-*
5 *cept that the Secretary may, in the case of an*
6 *employer subject to penalty for recordkeeping or*
7 *verification violations only who has not pre-*
8 *viously been penalized under this section, in the*
9 *Secretary's or administrative law judge's discre-*
10 *tion, mitigate the penalty below the statutory*
11 *minimum or remit it entirely. In any case where*
12 *a civil money penalty has been imposed on an*
13 *employer under section 274B for an action or*
14 *omission that is also a violation of this section,*
15 *the Secretary or administrative law judge shall*
16 *mitigate any civil money penalty under this sec-*
17 *tion by the amount of the penalty imposed under*
18 *section 274B.*

19 “(F) *EFFECTIVE DATE.*—*The civil money*
20 *penalty amounts and the enhanced penalties pro-*
21 *vided by subparagraphs (A), (B), and (C) of this*
22 *paragraph and by subsection (f)(2) shall apply*
23 *to violations of this section committed on or after*
24 *the date that is 1 year after the date of the enact-*
25 *ment of the Border Security, Economic Oppor-*

1 *tunity, and Immigration Modernization Act. For*
2 *violations committed prior to such date of enact-*
3 *ment, the civil money penalty amounts provided*
4 *by regulations implementing this section as in*
5 *effect the minute before such date of enactment*
6 *with respect to knowing hiring or continuing*
7 *employment, verification, or indemnity bond vio-*
8 *lations, as appropriate, shall apply.*

9 “(5) *ORDER OF INTERNAL REVIEW AND CERTIFI-*
10 *CATION OF COMPLIANCE.—*

11 “(A) *EMPLOYER COMPLIANCE.—If the Sec-*
12 *retary has reasonable cause to believe that an*
13 *employer has failed to comply with this section,*
14 *the Secretary is authorized, at any time, to re-*
15 *quire that the employer certify that it is in com-*
16 *pliance with this section, or has instituted a pro-*
17 *gram to come into compliance.*

18 “(B) *EMPLOYER CERTIFICATION.—*

19 “(i) *REQUIREMENT.—Except as pro-*
20 *vided in subparagraph (C), not later than*
21 *60 days after receiving a notice from the*
22 *Secretary requiring a certification under*
23 *subparagraph (A), an official with responsi-*
24 *bility for, and authority to bind the com-*
25 *pany on, all hiring and immigration com-*

1 *pliance notices shall certify under penalty*
2 *of perjury that the employer is in conform-*
3 *ance with the requirements of paragraphs*
4 *(1) through (4) of subsection (c), pertaining*
5 *to document verification requirements, and*
6 *with subsection (d), pertaining to the Sys-*
7 *tem (once the System is implemented with*
8 *respect to that employer according to the re-*
9 *quirements under subsection (d)(2)), and*
10 *with any additional requirements that the*
11 *Secretary may promulgate by regulation*
12 *pursuant to subsection (c) or (d) or that the*
13 *employer has instituted a program to come*
14 *into compliance with these requirements.*

15 *“(ii) APPLICATION.—Clause (i) shall*
16 *not apply until the date that the Secretary*
17 *certifies to Congress that the System has*
18 *been established, implemented, and made*
19 *mandatory for use by all employers in the*
20 *United States.*

21 *“(C) EXTENSION OF DEADLINE.—At the re-*
22 *quest of the employer, the Secretary may extend*
23 *the 60-day deadline for good cause.*

24 *“(D) STANDARDS OR METHODS.—The Sec-*
25 *retary is authorized to publish in the Federal*

1 *Register standards or methods for such certifi-*
2 *cation, require specific recordkeeping practices*
3 *with respect to such certifications, and audit the*
4 *records thereof at any time. This authority shall*
5 *not be construed to diminish or qualify any*
6 *other penalty provided by this section.*

7 “(6) *REQUIREMENTS FOR REVIEW OF A FINAL*
8 *DETERMINATION.—With respect to judicial review of*
9 *a final determination or penalty order issued under*
10 *paragraph (3)(D), the following requirements apply:*

11 “(A) *DEADLINE.—The petition for review*
12 *must be filed no later than 30 days after the date*
13 *of the final determination or penalty order*
14 *issued under paragraph (3)(D).*

15 “(B) *VENUE AND FORMS.—The petition for*
16 *review shall be filed with the court of appeals for*
17 *the judicial circuit where the employer’s prin-*
18 *cipal place of business was located when the*
19 *final determination or penalty order was made.*
20 *The record and briefs do not have to be printed.*
21 *The court shall review the proceeding on a type-*
22 *written or electronically filed record and briefs.*

23 “(C) *SERVICE.—The respondent is the Sec-*
24 *retary. In addition to serving the respondent, the*
25 *petitioner shall serve the Attorney General.*

1 “(D) *PETITIONER’S BRIEF.*—*The petitioner*
2 *shall serve and file a brief in connection with a*
3 *petition for judicial review not later than 40*
4 *days after the date on which the administrative*
5 *record is available, and may serve and file a*
6 *reply brief not later than 14 days after service*
7 *of the brief of the respondent, and the court may*
8 *not extend these deadlines, except for good cause*
9 *shown. If a petitioner fails to file a brief within*
10 *the time provided in this paragraph, the court*
11 *shall dismiss the appeal unless a manifest injus-*
12 *tice would result.*

13 “(E) *SCOPE AND STANDARD FOR REVIEW.*—
14 *The court of appeals shall conduct a de novo re-*
15 *view of the administrative record on which the*
16 *final determination was based and any addi-*
17 *tional evidence that the Court finds was pre-*
18 *viously unavailable at the time of the adminis-*
19 *trative hearing.*

20 “(F) *EXHAUSTION OF ADMINISTRATIVE*
21 *REMEDIES.*—*A court may review a final deter-*
22 *mination under paragraph (3)(C) only if—*

23 “(i) *the petitioner has exhausted all*
24 *administrative remedies available to the pe-*
25 *itioner as of right, including any adminis-*

1 *trative remedies established by regulation,*
2 *and*

3 *“(ii) another court has not decided the*
4 *validity of the order, unless the reviewing*
5 *court finds that the petition presents*
6 *grounds that could not have been presented*
7 *in the prior judicial proceeding or that the*
8 *remedy provided by the prior proceeding*
9 *was inadequate or ineffective to test the va-*
10 *lidity of the order.*

11 *“(G) ENFORCEMENT OF ORDERS.—If the*
12 *final determination issued against the employer*
13 *under this subsection is not subjected to review*
14 *as provided in this paragraph, the Attorney*
15 *General, upon request by the Secretary, may*
16 *bring a civil action to enforce compliance with*
17 *the final determination in any appropriate dis-*
18 *trict court of the United States. The court, on a*
19 *proper showing, shall issue a temporary re-*
20 *straining order or a preliminary or permanent*
21 *injunction requiring that the employer comply*
22 *with the final determination issued against that*
23 *employer under this subsection. In any such civil*
24 *action, the validity and appropriateness of the*

1 *final determination shall not be subject to re-*
2 *view.*

3 “(7) *CREATION OF LIEN.*—*If any employer liable*
4 *for a fee or penalty under this section neglects or re-*
5 *fuses to pay such liability after demand and fails to*
6 *file a petition for review (if applicable) as provided*
7 *in paragraph (6), the amount of the fee or penalty*
8 *shall be a lien in favor of the United States on all*
9 *property and rights to property, whether real or per-*
10 *sonal, belonging to such employer. If a petition for re-*
11 *view is filed as provided in paragraph (6), the lien*
12 *shall arise upon the entry of a final judgment by the*
13 *court. The lien continues for 20 years or until the li-*
14 *ability is satisfied, remitted, set aside, or terminated.*

15 “(8) *FILING NOTICE OF LIEN.*—

16 “(A) *PLACE FOR FILING.*—*The notice of a*
17 *lien referred to in paragraph (7) shall be filed as*
18 *described in 1 of the following:*

19 “(i) *UNDER STATE LAWS.*—

20 “(I) *REAL PROPERTY.*—*In the*
21 *case of real property, in 1 office within*
22 *the State (or the county, or other gov-*
23 *ernmental subdivision), as designated*
24 *by the laws of such State, in which the*
25 *property subject to the lien is situated.*

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1 “(II) *PERSONAL PROPERTY.*—*In*
2 *the case of personal property, whether*
3 *tangible or intangible, in 1 office with-*
4 *in the State (or the county, or other*
5 *governmental subdivision), as des-*
6 *ignated by the laws of such State, in*
7 *which the property subject to the lien is*
8 *situated, except that State law merely*
9 *conforming to or reenacting Federal*
10 *law establishing a national filing sys-*
11 *tem does not constitute a second office*
12 *for filing as designated by the laws of*
13 *such State.*

14 “(ii) *WITH CLERK OF DISTRICT*
15 *COURT.*—*In the office of the clerk of the*
16 *United States district court for the judicial*
17 *district in which the property subject to the*
18 *lien is situated, whenever the State has not*
19 *by law designated 1 office which meets the*
20 *requirements of clause (i).*

21 “(iii) *WITH RECORDER OF DEEDS OF*
22 *THE DISTRICT OF COLUMBIA.*—*In the office*
23 *of the Recorder of Deeds of the District of*
24 *Columbia, if the property subject to the lien*
25 *is situated in the District of Columbia.*

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1 “(B) *SITUS OF PROPERTY SUBJECT TO*
2 *LIEN.—For purposes of subparagraph (A), prop-*
3 *erty shall be deemed to be situated as follows:*

4 “(i) *REAL PROPERTY.—In the case of*
5 *real property, at its physical location.*

6 “(ii) *PERSONAL PROPERTY.—In the*
7 *case of personal property, whether tangible*
8 *or intangible, at the residence of the tax-*
9 *payer at the time the notice of lien is filed.*

10 “(C) *DETERMINATION OF RESIDENCE.—For*
11 *purposes of subparagraph (B)(ii), the residence*
12 *of a corporation or partnership shall be deemed*
13 *to be the place at which the principal executive*
14 *office of the business is located, and the residence*
15 *of a taxpayer whose residence is outside the*
16 *United States shall be deemed to be in the Dis-*
17 *trict of Columbia.*

18 “(D) *EFFECT OF FILING NOTICE OF LIEN.—*

19 “(i) *IN GENERAL.—Upon filing of a*
20 *notice of lien in the manner described in*
21 *this paragraph, the lien shall be valid*
22 *against any purchaser, holder of a security*
23 *interest, mechanic’s lien, or judgment lien*
24 *creditor, except with respect to properties or*
25 *transactions specified in subsection (b), (c),*

1 or (d) of section 6323 of the Internal Rev-
2 enue Code of 1986 for which a notice of tax
3 lien properly filed on the same date would
4 not be valid.

5 “(ii) NOTICE OF LIEN.—The notice of
6 lien shall be considered a notice of lien for
7 taxes payable to the United States for the
8 purpose of any State or local law providing
9 for the filing of a notice of a tax lien. A no-
10 tice of lien that is registered, recorded, dock-
11 eted, or indexed in accordance with the
12 rules and requirements relating to judg-
13 ments of the courts of the State where the
14 notice of lien is registered, recorded, dock-
15 eted, or indexed shall be considered for all
16 purposes as the filing prescribed by this sec-
17 tion.

18 “(iii) OTHER PROVISIONS.—The provi-
19 sions of section 3201(e) of title 28, United
20 States Code, shall apply to liens filed as
21 prescribed by this paragraph.

22 “(E) ENFORCEMENT OF A LIEN.—A lien ob-
23 tained through this paragraph shall be consid-
24 ered a debt as defined by section 3002 of title 28,

1 *United States Code and enforceable pursuant to*
2 *chapter 176 of such title.*

3 “(9) *ATTORNEY GENERAL ADJUDICATION.*—*The*
4 *Attorney General shall have jurisdiction to adjudicate*
5 *administrative proceedings under this subsection.*
6 *Such proceedings shall be conducted in accordance*
7 *with requirements of section 554 of title 5, United*
8 *States Code.*

9 “(f) *CRIMINAL AND CIVIL PENALTIES AND INJUNC-*
10 *TIONS.*—

11 “(1) *PROHIBITION OF INDEMNITY BONDS.*—*It is*
12 *unlawful for an employer, in the hiring of any indi-*
13 *vidual, to require the individual to post a bond or se-*
14 *curity, to pay or agree to pay an amount, or other-*
15 *wise to provide a financial guarantee or indemnity,*
16 *against any potential liability arising under this sec-*
17 *tion relating to such hiring of the individual.*

18 “(2) *CIVIL PENALTY.*—*Any employer who is de-*
19 *termined, after notice and opportunity for mitigation*
20 *of the monetary penalty under subsection (e), to have*
21 *violated paragraph (1) shall be subject to a civil pen-*
22 *alty of \$10,000 for each violation and to an adminis-*
23 *trative order requiring the return of any amounts re-*
24 *ceived in violation of such paragraph to the employee*

1 *or, if the employee cannot be located, to the general*
2 *fund of the Treasury.*

3 “(g) *GOVERNMENT CONTRACTS.—*

4 “(1) *CONTRACTORS AND RECIPIENTS.—Whenever*
5 *an employer who is a Federal contractor (meaning an*
6 *employer who holds a Federal contract, grant, or co-*
7 *operative agreement, or reasonably may be expected to*
8 *submit an offer for or be awarded a government con-*
9 *tract) is determined by the Secretary to have violated*
10 *this section on more than 3 occasions or is convicted*
11 *of a crime under this section, the employer shall be*
12 *considered for debarment from the receipt of Federal*
13 *contracts, grants, or cooperative agreements in ac-*
14 *cordance with the procedures and standards and for*
15 *the periods prescribed by the Federal Acquisition Reg-*
16 *ulation. However, any administrative determination*
17 *of liability for civil penalty by the Secretary or the*
18 *Attorney General shall not be reviewable in any de-*
19 *barment proceeding.*

20 “(2) *INADVERTENT VIOLATIONS.—Inadvertent*
21 *violations of recordkeeping or verification require-*
22 *ments, in the absence of any other violations of this*
23 *section, shall not be a basis for determining that an*
24 *employer is a repeat violator for purposes of this sub-*
25 *section.*

1 “(3) *OTHER REMEDIES AVAILABLE.*—*Nothing in*
2 *this subsection shall be construed to modify or limit*
3 *any remedy available to any agency or official of the*
4 *Federal Government for violation of any contractual*
5 *requirement to participate in the System, as provided*
6 *in the final rule relating to employment eligibility*
7 *verification published in the Federal Register on No-*
8 *vember 14, 2008 (73 Fed. Reg. 67,651), or any simi-*
9 *lar subsequent regulation.*

10 “(h) *PREEMPTION.*—*The provisions of this section pre-*
11 *empt any State or local law, ordinance, policy, or rule, in-*
12 *cluding any criminal or civil fine or penalty structure, re-*
13 *lating to the hiring, continued employment, or status*
14 *verification for employment eligibility purposes, of unau-*
15 *thorized aliens. A State, locality, municipality, or political*
16 *subdivision may exercise its authority over business licens-*
17 *ing and similar laws as a penalty for failure to use the*
18 *System.*

19 “(i) *DEPOSIT OF AMOUNTS RECEIVED.*—*Except as*
20 *otherwise specified, civil penalties collected under this sec-*
21 *tion shall be deposited by the Secretary into the Comprehen-*
22 *sive Immigration Reform Trust Fund established under sec-*
23 *tion 6(a)(1) of the Border Security, Economic Opportunity,*
24 *and Immigration Modernization Act.*

25 “(j) *CHALLENGES TO VALIDITY OF THE SYSTEM.*—

1 “(1) *IN GENERAL.*—*Any right, benefit, or claim*
2 *not otherwise waived or limited pursuant to this sec-*
3 *tion is available in an action instituted in the United*
4 *States District Court for the District of Columbia, but*
5 *shall be limited to determinations of—*

6 “(A) *whether this section, or any regulation*
7 *issued to implement this section, violates the*
8 *Constitution of the United States; or*

9 “(B) *whether such a regulation issued by or*
10 *under the authority of the Secretary to imple-*
11 *ment this section, is contrary to applicable pro-*
12 *visions of this section or was issued in violation*
13 *of chapter 5 of title 5, United States Code.*

14 “(2) *DEADLINES FOR BRINGING ACTIONS.*—*Any*
15 *action instituted under this subsection must be filed*
16 *no later than 180 days after the date the challenged*
17 *section or regulation described in subparagraph (A)*
18 *or (B) of paragraph (1) becomes effective. No court*
19 *shall have jurisdiction to review any challenge de-*
20 *scribed in subparagraph (B) after the time period*
21 *specified in this subsection expires.*

22 “(k) *CRIMINAL PENALTIES AND INJUNCTIONS FOR*
23 *PATTERN OR PRACTICE VIOLATIONS.*—

24 “(1) *PATTERN AND PRACTICE.*—*Any employer*
25 *who engages in a pattern or practice of knowing vio-*

1 *lations of subsection (a)(1)(A) or (a)(2) shall be fined*
2 *under title 18, United States Code, no more than*
3 *\$10,000 for each unauthorized alien with respect to*
4 *whom such violation occurs, imprisoned for not more*
5 *than 2 years for the entire pattern or practice, or*
6 *both.*

7 *“(2) TERM OF IMPRISONMENT.—The maximum*
8 *term of imprisonment of a person convicted of any*
9 *criminal offense under the United States Code shall*
10 *be increased by 5 years if the offense is committed as*
11 *part of a pattern or practice of violations of sub-*
12 *section (a)(1)(A) or (a)(2).*

13 *“(3) ENJOINING OF PATTERN OR PRACTICE VIO-*
14 *LATIONS.—Whenever the Secretary or the Attorney*
15 *General has reasonable cause to believe that an em-*
16 *ployer is engaged in a pattern or practice of employ-*
17 *ment in violation of subsection (a)(1)(A) or (a)(2),*
18 *the Attorney General may bring a civil action in the*
19 *appropriate district court of the United States re-*
20 *questing such relief, including a permanent or tem-*
21 *porary injunction, restraining order, or other order*
22 *against the employer, as the Secretary or Attorney*
23 *General deems necessary.*

24 *“(l) CRIMINAL PENALTIES FOR UNLAWFUL AND ABU-*
25 *SIVE EMPLOYMENT.—*

1 “(1) *IN GENERAL.*—Any person who, during any
2 12-month period, knowingly employs or hires, em-
3 ploys, recruits, or refers for a fee for employment 10
4 or more individuals within the United States who are
5 under the control and supervision of such person—

6 “(A) knowing that the individuals are un-
7 authorized aliens; and

8 “(B) under conditions that violate section
9 5(a) of the Occupational Safety and Health Act
10 of 1970 (29 U.S.C. 654(a) (relating to occupa-
11 tional safety and health), section 6 or 7 of the
12 Fair Labor Standards Act of 1938 (29 U.S.C.
13 206 and 207) (relating to minimum wages and
14 maximum hours of employment), section 3142 of
15 title 40, United States Code, (relating to re-
16 quired wages on construction contracts), or sec-
17 tions 6703 or 6704 of title 41, United States
18 Code, (relating to required wages on service con-
19 tracts),

20 shall be fined under title 18, United States Code, or
21 imprisoned for not more than 10 years, or both.

22 “(2) *ATTEMPT AND CONSPIRACY.*—Any person
23 who attempts or conspires to commit any offense
24 under this section shall be punished in the same man-
25 ner as a person who completes the offense.”.

1 **(b) REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL INDUSTRY.**—Not later than 18 months after the
2 date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit a report
3 to Congress that assesses implementation of the Employment Verification System established under section 274A(d)
4 of the Immigration and Nationality Act, as amended by subsection (a), in the agricultural industry, including the
5 use of such System technology in agriculture industry hiring processes, user, contractor, and third-party employer
6 agent employment practices, timing and logistics regarding employment verification and reverification processes to
7 meet agriculture industry practices, and identification of potential challenges and modifications to meet the unique
8 needs of the agriculture industry. Such report shall review—
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17 (1) the modality of access, training and outreach, customer support, processes for further action
18 notices and secondary verifications for short-term workers, monitoring, and compliance procedures for
19 such System;
20
21

22 (2) the interaction of such System with the process to admit nonimmigrant workers pursuant to section
23 218 or 218A of the Immigration and Nationality
24

1 *Act (8 U.S.C. 1188 et seq.) and with enforcement of*
2 *the immigration laws; and*

3 *(3) the collaborative use of processes of other Fed-*
4 *eral and State agencies that intersect with the agri-*
5 *culture industry.*

6 *(c) REPORT ON IMPACT OF THE SYSTEM ON EMPLOY-*
7 *ERS.—Not later than 18 months after the date of the enact-*
8 *ment of this Act, the Secretary shall submit to Congress a*
9 *report that assesses—*

10 *(1) the implementation of the Employment*
11 *Verification System established under section 274A(d)*
12 *of the Immigration and Nationality Act, as amended*
13 *by subsection (a), by employers;*

14 *(2) any adverse impact on the revenues, business*
15 *processes, or profitability of employers required to use*
16 *such System; and*

17 *(3) the economic impact of such System on small*
18 *businesses.*

19 *(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF*
20 *THE EFFECTS OF DOCUMENT REQUIREMENTS ON EMPLOY-*
21 *MENT AUTHORIZED PERSONS AND EMPLOYERS.—*

22 *(1) STUDY.—The Comptroller General of the*
23 *United States shall carry out a study of—*

24 *(A) the effects of the documentary require-*
25 *ments of section 274A of the Immigration and*

1 *Nationality Act, as amended by subsection (a),*
2 *on employers, naturalized United States citizens,*
3 *nationals of the United States, and individuals*
4 *with employment authorized status; and*

5 *(B) the challenges such employers, citizens,*
6 *nationals, or individuals may face in obtaining*
7 *the documentation required under that section.*

8 (2) *REPORT.*—*Not later than 4 years after the*
9 *date of the enactment of this Act, the Comptroller*
10 *General shall submit to Congress a report containing*
11 *the findings of the study carried out under paragraph*
12 *(1). Such report shall include, at a minimum, the fol-*
13 *lowing:*

14 *(A) An assessment of available information*
15 *regarding the number of working age nationals*
16 *of the United States and individuals who have*
17 *employment authorized status who lack docu-*
18 *ments required for employment by such section*
19 *274A.*

20 *(B) A description of the additional steps re-*
21 *quired for individuals who have employment au-*
22 *thorized status and do not possess the documents*
23 *required by such section 274A to obtain such*
24 *documents.*

1 (C) *A general assessment of the average fi-*
2 *nancial costs for individuals who have employ-*
3 *ment authorized status who do not possess the*
4 *documents required by such section 274A to ob-*
5 *tain such documents.*

6 (D) *A general assessment of the average fi-*
7 *nancial costs and challenges for employers who*
8 *have been required to participate in the Employ-*
9 *ment Verification System established by sub-*
10 *section (d) of such section 274A.*

11 (E) *A description of the barriers to individ-*
12 *uals who have employment authorized status in*
13 *obtaining the documents required by such section*
14 *274A, including barriers imposed by the execu-*
15 *tive branch of the Government.*

16 (F) *Any particular challenges facing indi-*
17 *viduals who have employment authorized status*
18 *who are members of a federally recognized In-*
19 *dian tribe in complying with the provisions of*
20 *such section 274A.*

21 (e) *REPEAL OF PILOT PROGRAMS AND E-VERIFY AND*
22 *TRANSITION PROCEDURES.—*

23 (1) *REPEAL.—Sections 401, 402, 403, 404, and*
24 *405 of the Illegal Immigration Reform and Immi-*

1 *grant Responsibility Act of 1996 (division C of Public*
2 *Law 104–208; 8 U.S.C. 1324a note) are repealed.*

3 (2) *TRANSITION PROCEDURES.—*

4 (A) *CONTINUATION OF E-VERIFY PRO-*
5 *GRAM.—Notwithstanding the repeals made by*
6 *paragraph (1), the Secretary shall continue to*
7 *operate the E-Verify Program as described in*
8 *section 403 of the Illegal Immigration Reform*
9 *and Immigrant Responsibility Act of 1996 (divi-*
10 *sion C of Public Law 104–208; 8 U.S.C. 1324a*
11 *note), as in effect the minute before the date of*
12 *the enactment of this Act, until the transition to*
13 *the System described in section 274A(d) of the*
14 *Immigration and Nationality Act, as amended*
15 *by subsection (a), is determined by the Secretary*
16 *to be complete.*

17 (B) *TRANSITION TO THE SYSTEM.—Any*
18 *employer who was participating in the E-Verify*
19 *Program described in section 403 of the Illegal*
20 *Immigration Reform and Immigrant Responsi-*
21 *bility Act of 1996 (division C of Public Law*
22 *104–208; 8 U.S.C. 1324a note), as in effect the*
23 *minute before the date of the enactment of this*
24 *Act, shall participate in the System described in*
25 *section 274A(d) of the Immigration and Nation-*

1 *ality Act, as amended by subsection (a), to the*
2 *same extent and in the same manner that the*
3 *employer participated in such E-Verify Pro-*
4 *gram.*

5 (3) *CONSTRUCTION.*—*The repeal made by para-*
6 *graph (1) may not be construed to limit the authority*
7 *of the Secretary to allow or continue to allow the par-*
8 *ticipation in such System of employers who have par-*
9 *ticipated in such E-Verify Program, as in effect on*
10 *the minute before the date of the enactment of this*
11 *Act.*

12 (f) *CONFORMING AMENDMENT.*—*Section 274(a) (8*
13 *U.S.C. 1324(a)) is amended—*

14 (1) *by striking paragraph (3); and*

15 (2) *by redesignating paragraph (4) as para-*
16 *graph (3).*

17 **SEC. 3102. INCREASING SECURITY AND INTEGRITY OF SO-**
18 **CIAL SECURITY CARDS.**

19 (a) *FRAUD-RESISTANT, TAMPER-RESISTANT, WEAR-*
20 *RESISTANT, AND IDENTITY THEFT-RESISTANT SOCIAL SE-*
21 *CURITY CARDS.*—

22 (1) *ISSUANCE.*—

23 (A) *PRELIMINARY WORK.*—*Not later than*
24 *180 days after the date of the enactment of this*
25 *Act, the Commissioner of Social Security shall*

1 *begin work to administer and issue fraud-resist-*
2 *ant, tamper-resistant, wear-resistant, and iden-*
3 *entity theft-resistant social security cards.*

4 *(B) COMPLETION.—Not later than 5 years*
5 *after the date of the enactment of this Act, the*
6 *Commissioner of Social Security shall issue only*
7 *social security cards determined to be fraud-re-*
8 *sistant, tamper-resistant, wear-resistant, and*
9 *identity theft-resistant.*

10 (2) *AMENDMENT.—*

11 *(A) IN GENERAL.—Section 205(c)(2)(G) of*
12 *the Social Security Act (42 U.S.C. 405(c)(2)(G))*
13 *is amended by striking the second sentence and*
14 *inserting the following: “The social security card*
15 *shall be fraud-resistant, tamper-resistant, wear-*
16 *resistant, and identity theft-resistant.”.*

17 *(B) EFFECTIVE DATE.—The amendment*
18 *made by subparagraph (A) shall take effect on*
19 *the date that is 5 years after the date of the en-*
20 *actment of this Act.*

21 (3) *AUTHORIZATION OF APPROPRIATION.—There*
22 *are authorized to be appropriated, from the Com-*
23 *prehensive Immigration Reform Trust Fund estab-*
24 *lished under section 6(a)(1), such sums as may be*

1 *necessary to carry out this section and the amend-*
2 *ments made by this section.*

3 (4) *EMERGENCY DESIGNATION FOR CONGRES-*
4 *SIONAL ENFORCEMENT.—In the Senate, amounts*
5 *made available under this subsection are designated*
6 *as an emergency requirement pursuant to section*
7 *403(a) of S. Con. Res. 13 (111th Congress), the con-*
8 *current resolution on the budget for fiscal year 2010.*

9 (5) *EMERGENCY DESIGNATION FOR STATUTORY*
10 *PAYGO.—Amounts made available under this sub-*
11 *section are designated as an emergency requirement*
12 *under section 4(g) of the Statutory Pay-As-You-Go*
13 *Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).*

14 (b) *MULTIPLE CARDS.—Section 205(c)(2)(G) of the*
15 *Social Security Act (42 U.S.C. 405(c)(2)(G)), as amended*
16 *by subsection (a)(2), is amended—*

17 (1) *by inserting “(i)” after “(G)”;* and

18 (2) *by adding at the end the following:*

19 “(i) *The Commissioner of Social Security shall re-*
20 *strict the issuance of multiple replacement social security*
21 *cards to any individual to 3 per year and 10 for the life*
22 *of the individual, except that the Commissioner may allow*
23 *for reasonable exceptions from the limits under this clause*
24 *on a case-by-case basis in compelling circumstances.”.*

25 (c) *CRIMINAL PENALTIES.—*

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1 (1) *SOCIAL SECURITY FRAUD.*—

2 (A) *IN GENERAL.*—Chapter 47 of title 18,
3 *United States Code, is amended by inserting at*
4 *the end the following:*

5 **“§ 1041. Social security fraud**

6 “Any person who—

7 “(1) knowingly possesses or uses a social security
8 *account number or social security card knowing that*
9 *the number or card was obtained from the Commis-*
10 *sioner of Social Security by means of fraud or false*
11 *statement;*

12 “(2) knowingly and falsely represents a number
13 *to be the social security account number assigned by*
14 *the Commissioner of Social Security to him or her or*
15 *to another person, when such number is known not to*
16 *be the social security account number assigned by the*
17 *Commissioner of Social Security to him or her or to*
18 *such other person;*

19 “(3) knowingly, and without lawful authority,
20 *buys, sells, or possesses with intent to buy or sell a*
21 *social security account number or a social security*
22 *card that is or purports to be a number or card*
23 *issued by the Commissioner of Social Security;*

1 “(4) knowingly alters, counterfeits, forges, or
2 *falsely makes a social security account number or a*
3 *social security card;*

4 “(5) knowingly uses, distributes, or transfers a
5 *social security account number or a social security*
6 *card knowing the number or card to be intentionally*
7 *altered, counterfeited, forged, falsely made, or stolen;*
8 *or*

9 “(6) without lawful authority, knowingly pro-
10 *duces or acquires for any person a social security ac-*
11 *count number, a social security card, or a number or*
12 *card that purports to be a social security account*
13 *number or social security card,*
14 *shall be fined under this title, imprisoned not more than*
15 *5 years, or both.”.*

16 (B) *TABLE OF SECTIONS AMENDMENT.—The*
17 *table of sections for chapter 47 of title 18, United*
18 *States Code, is amended by adding after the item*
19 *relating to section 1040 the following:*

 “*Sec. 1041. Social security fraud.*”.

20 (2) *INFORMATION DISCLOSURE.—*

21 (A) *IN GENERAL.—Notwithstanding any*
22 *other provision of law and subject to subpara-*
23 *graph (B), the Commissioner of Social Security*
24 *shall disclose for the purpose of investigating a*
25 *violation of section 1041 of title 18, United*

1 *States Code, or section 274A, 274B, or 274C of*
2 *the Immigration and Nationality Act (8 U.S.C.*
3 *1324a, 1324b, and 1324c), after receiving a writ-*
4 *ten request from an officer in a supervisory posi-*
5 *tion or higher official of any Federal law en-*
6 *forcement agency, the following records of the So-*
7 *cial Security Administration:*

8 *(i) Records concerning the identity, ad-*
9 *dress, location, or financial institution ac-*
10 *counts of the holder of a social security ac-*
11 *count number or social security card.*

12 *(ii) Records concerning the application*
13 *for and issuance of a social security account*
14 *number or social security card.*

15 *(iii) Records concerning the existence*
16 *or nonexistence of a social security account*
17 *number or social security card.*

18 *(B) LIMITATION.—The Commissioner of So-*
19 *cial Security shall not disclose any tax return or*
20 *tax return information pursuant to subpara-*
21 *graph (A) except as authorized by section 6103*
22 *of the Internal Revenue Code of 1986.*

1 **SEC. 3103. INCREASING SECURITY AND INTEGRITY OF IMMI-**
2 **GRATION DOCUMENTS.**

3 *Not later than 1 year after the date of the enactment*
4 *of this Act, the Secretary shall submit a report to Congress*
5 *on the feasibility, advantages, and disadvantages of includ-*
6 *ing, in addition to a photograph, other biometric informa-*
7 *tion on each employment authorization document issued by*
8 *the Department.*

9 **SEC. 3104. RESPONSIBILITIES OF THE SOCIAL SECURITY**
10 **ADMINISTRATION.**

11 *Title XI of the Social Security Act (42 U.S.C. 1301*
12 *et seq.) is amended by adding at the end the following new*
13 *part:*

14 **“PART E—EMPLOYMENT VERIFICATION**
15 **“RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL**
16 **SECURITY**

17 **“SEC. 1186. (a) CONFIRMATION OF EMPLOYMENT**
18 **VERIFICATION DATA.—***As part of the employment*
19 *verification system established by the Secretary of Home-*
20 *land Security under the provisions of section 274A of the*
21 *Immigration and Nationality Act (8 U.S.C. 1324a) (in this*
22 *section referred to as the ‘System’), the Commissioner of So-*
23 *cial Security shall, subject to the provisions of section*
24 *274A(d) of the Immigration and Nationality Act (8 U.S.C.*
25 *1324a(d)), establish a reliable, secure method that, oper-*

1 *ating through the System and within the time periods speci-*
2 *fied in section 274A(d) of such Act—*

3 “(1) *compares the name, date of birth, social se-*
4 *curity account number, and available citizenship in-*
5 *formation provided in an inquiry against such infor-*
6 *mation maintained by the Commissioner in order to*
7 *confirm (or not confirm) the validity of the informa-*
8 *tion provided regarding an individual whose identity*
9 *and employment eligibility must be confirmed;*

10 “(2) *determines the correspondence of the name,*
11 *date of birth, and number;*

12 “(3) *determines whether the name and number*
13 *belong to an individual who is deceased according to*
14 *the records maintained by the Commissioner;*

15 “(4) *determines whether an individual is a na-*
16 *tional of the United States, as defined in section*
17 *101(a)(22) of the Immigration and Nationality Act*
18 *(8 U.S.C. 1101(a)(22)); and*

19 “(5) *determines whether the individual has pre-*
20 *sented a social security account number that is not*
21 *valid for employment.*

22 “(b) *PROHIBITION.—The System shall not disclose or*
23 *release social security information to employers through the*
24 *confirmation system (other than such confirmation or non-*
25 *confirmation, information provided by the employer to the*

1 *System, or the reason for the issuance of a further action*
2 *notice).”.*

3 **SEC. 3105. IMPROVED PROHIBITION ON DISCRIMINATION**
4 **BASED ON NATIONAL ORIGIN OR CITIZEN-**
5 **SHIP STATUS.**

6 (a) *IN GENERAL.*—Section 274B(a) (8 U.S.C.
7 1324b(a)) *is amended to read as follows:*

8 “(a) *PROHIBITION ON DISCRIMINATION BASED ON NA-*
9 *TIONAL ORIGIN OR CITIZENSHIP STATUS.*—

10 “(1) *PROHIBITION ON DISCRIMINATION GEN-*
11 *ERALLY.*—*It is an unfair immigration-related em-*
12 *ployment practice for a person, other entity, or em-*
13 *ployment agency, to discriminate against any indi-*
14 *vidual (other than an unauthorized alien defined in*
15 *section 274A(b)) because of such individual’s national*
16 *origin or citizenship status, with respect to the fol-*
17 *lowing:*

18 “(A) *The hiring of the individual for em-*
19 *ployment.*

20 “(B) *The verification of the individual’s eli-*
21 *gibility to work in the United States.*

22 “(C) *The discharging of the individual from*
23 *employment.*

24 “(2) *EXCEPTIONS.*—*Paragraph (1) shall not*
25 *apply to the following:*

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1 “(A) A person, other entity, or employer
2 that employs 3 or fewer employees, except for an
3 employment agency.

4 “(B) A person’s or entity’s discrimination
5 because of an individual’s national origin if the
6 discrimination with respect to that employer,
7 person, or entity and that individual is covered
8 under section 703 of the Civil Rights Act of 1964
9 (42 U.S.C. 2000e-2), unless the discrimination
10 is related to an individual’s verification of em-
11 ployment authorization.

12 “(C) Discrimination because of citizenship
13 status which—

14 “(i) is otherwise required in order to
15 comply with a provision of Federal, State,
16 or local law related to law enforcement;

17 “(ii) is required by Federal Govern-
18 ment contract; or

19 “(iii) the Secretary or Attorney Gen-
20 eral determines to be essential for an em-
21 ployer to do business with an agency or de-
22 partment of the Federal Government or a
23 State, local, or tribal government.

24 “(3) *ADDITIONAL EXCEPTION PROVIDING RIGHT*
25 *TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwith-*

1 *standing any other provision of this section, it is not*
2 *an unfair immigration-related employment practice*
3 *for an employer (as defined in section 274A(b)) to*
4 *prefer to hire, recruit, or refer for a fee an individual*
5 *who is a citizen or national of the United States over*
6 *another individual who is an alien if the 2 individ-*
7 *uals are equally qualified.*

8 *“(4) UNFAIR IMMIGRATION-RELATED EMPLOY-*
9 *MENT PRACTICES RELATING TO THE SYSTEM.—It is*
10 *also an unfair immigration-related employment prac-*
11 *tice for a person, other entity, or employment agen-*
12 *cy—*

13 *“(A) to discharge or constructively dis-*
14 *charge an individual solely due to a further ac-*
15 *tion notice issued by the Employment*
16 *Verification System created by section 274A*
17 *until the administrative appeal described in sec-*
18 *tion 274A(d)(6) is completed;*

19 *“(B) to use the System with regard to any*
20 *person for any purpose except as authorized by*
21 *section 274A(d);*

22 *“(C) to use the System to reverify the em-*
23 *ployment authorization of a current employee,*
24 *including an employee continuing in employ-*
25 *ment, other than reverification upon expiration*

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1 *of employment authorization, or as otherwise au-*
2 *thorized under section 274A(d) or by regulation;*

3 *“(D) to use the System selectively for em-*
4 *ployees, except where authorized by law;*

5 *“(E) to fail to provide to an individual any*
6 *notice required in section 274A(d) within the rel-*
7 *evant time period;*

8 *“(F) to use the System to deny workers’ em-*
9 *ployment or post-employment benefits;*

10 *“(G) to misuse the System to discriminate*
11 *based on national origin or citizenship status;*

12 *“(H) to require an employee or prospective*
13 *employee to use any self-verification feature of*
14 *the System or provide, as a condition of applica-*
15 *tion or employment, any self-verification results;*

16 *“(I) to use an immigration status*
17 *verification system, service, or method other than*
18 *those described in section 274A for purposes of*
19 *verifying employment eligibility; or*

20 *“(J) to grant access to document*
21 *verification or System data, to any individual*
22 *or entity other than personnel authorized to have*
23 *such access, or to fail to take reasonable safe-*
24 *guards to protect against unauthorized loss, use,*
25 *alteration, or destruction of System data.*

1 “(5) *PROHIBITION OF INTIMIDATION OR RETALI-*
2 *LATION.—It is also an unfair immigration-related*
3 *employment practice for a person, other entity, or em-*
4 *ployment agency to intimidate, threaten, coerce, or re-*
5 *taliate against any individual—*

6 “(A) *for the purpose of interfering with any*
7 *right or privilege secured under this section; or*

8 “(B) *because the individual intends to file*
9 *or has filed a charge or a complaint, testified,*
10 *assisted, or participated in any manner in an*
11 *investigation, proceeding, or hearing under this*
12 *section.*

13 “(6) *TREATMENT OF CERTAIN DOCUMENTARY*
14 *PRACTICES AS EMPLOYMENT PRACTICES.—A person’s,*
15 *other entity’s, or employment agency’s request, for*
16 *purposes of verifying employment eligibility, for more*
17 *or different documents than are required under sec-*
18 *tion 274A, or for specific documents, or refusing to*
19 *honor documents tendered that reasonably appear to*
20 *be genuine shall be treated as an unfair immigration-*
21 *related employment practice.*

22 “(7) *PROHIBITION OF WITHHOLDING EMPLOY-*
23 *MENT RECORDS.—It is an unfair immigration-related*
24 *employment practice for an employer that is required*
25 *under Federal, State, or local law to maintain records*

1 *documenting employment, including dates or hours of*
2 *work and wages received, to fail to provide such*
3 *records to any employee upon request.*

4 “(8) *PROFESSIONAL, COMMERCIAL, AND BUSI-*
5 *NESS LICENSES.—An individual who is authorized to*
6 *be employed in the United States may not be denied*
7 *a professional, commercial, or business license on the*
8 *basis of his or her immigration status.*

9 “(9) *EMPLOYMENT AGENCY DEFINED.—In this*
10 *section, the term ‘employment agency’ means any em-*
11 *ployer, person, or entity regularly undertaking with*
12 *or without compensation to procure employees for an*
13 *employer or to procure for employees opportunities to*
14 *work for an employer and includes an agent of such*
15 *employer, person, or entity.”.*

16 “(b) *REFERRAL BY EEOC.—Section 274B(b) (8 U.S.C.*
17 *1324b(b)) is amended by adding at the end the following:*

18 “(3) *REFERRAL BY EEOC.—The Equal Employ-*
19 *ment Opportunity Commission shall refer all matters*
20 *alleging immigration-related unfair employment*
21 *practices filed with the Commission, including those*
22 *alleging violations of paragraphs (1), (4), (5), and (6)*
23 *of subsection (a) to the Special Counsel for Immigra-*
24 *tion-Related Unfair Employment Practices of the De-*
25 *partment of Justice.”.*

1 (c) *AUTHORIZATION OF APPROPRIATIONS.*—Section
2 *274B(l)(3)* (8 U.S.C. *1324b(l)(3)*) is amended by striking
3 *the period at the end and inserting “and an additional*
4 *\$40,000,000 for each of fiscal years 2014 through 2016.”.*

5 (d) *FINES.*—

6 (1) *IN GENERAL.*—Section *274B(g)(2)(B)* (8
7 *U.S.C. 1324b(g)(2)(B)*) is amended by striking clause
8 *(iv)* and inserting the following:

9 *“(iv) to pay any applicable civil pen-*
10 *alties prescribed below, the amounts of*
11 *which may be adjusted periodically to ac-*
12 *count for inflation as provided by law—*

13 *“(I) except as provided in sub-*
14 *clauses (II) through (IV), to pay a*
15 *civil penalty of not less than \$2,000*
16 *and not more than \$5,000 for each in-*
17 *dividual subjected to an unfair immi-*
18 *gration-related employment practice;*

19 *“(II) except as provided in sub-*
20 *clauses (III) and (IV), in the case of*
21 *an employer, person, or entity pre-*
22 *viously subject to a single order under*
23 *this paragraph, to pay a civil penalty*
24 *of not less than \$4,000 and not more*
25 *than \$10,000 for each individual sub-*

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1 jected to an unfair immigration-related
2 employment practice;

3 “(III) except as provided in sub-
4 clause (IV), in the case of an employer,
5 person, or entity previously subject to
6 more than 1 order under this para-
7 graph, to pay a civil penalty of not
8 less than \$8,000 and not more than
9 \$25,000 for each individual subjected
10 to an unfair immigration-related em-
11 ployment practice; and

12 “(IV) in the case of an unfair im-
13 migration-related employment practice
14 described in paragraphs (4) through
15 (7) of subsection (a), to pay a civil
16 penalty of not less than \$500 and not
17 more than \$2,000 for each individual
18 subjected to an unfair immigration-re-
19 lated employment practice.”.

20 (2) *EFFECTIVE DATE.*—The amendment made by
21 paragraph (1) shall take effect on the date that is 1
22 year after the date of the enactment of this Act and
23 apply to violations occurring on or after such date of
24 enactment.

1 **SEC. 3106. RULEMAKING.**

2 (a) *INTERIM FINAL REGULATIONS.*—

3 (1) *IN GENERAL.*—*Not later than 1 year after*
4 *the date of the enactment of this Act—*

5 (A) *the Secretary, shall issue regulations*
6 *implementing sections 3101 and 3104 and the*
7 *amendments made by such sections (except for*
8 *section 274A(d)(7) of the Immigration and Na-*
9 *tionality Act); and*

10 (B) *the Attorney General shall issue regula-*
11 *tions implementing section 274A(d)(7) of the Im-*
12 *migration and Nationality Act, as added by sec-*
13 *tion 3101, section 3105, and the amendments*
14 *made by such sections.*

15 (2) *EFFECTIVE DATE.*—*Regulations issued pur-*
16 *suant to paragraph (1) shall be effective immediately*
17 *on an interim basis, but are subject to change and re-*
18 *vision after public notice and opportunity for a pe-*
19 *riod for public comment.*

20 (b) *FINAL REGULATIONS.*—*Within a reasonable time*
21 *after publication of the interim regulations under sub-*
22 *section (a), the Secretary, in consultation with the Commis-*
23 *sioner of Social Security and the Attorney General, shall*
24 *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 Advoc-*
7 *ate (in this section referred to as the “Office”). The purpose*
8 *of the Office shall be to assist small businesses and individ-*
9 *uals in complying with the requirements of section 274A*
10 *of the Immigration and Nationality Act (8 U.S.C. 1324a),*
11 *as amended by this Act, including the resolution of conflicts*
12 *arising in the course of attempted compliance with such re-*
13 *quirements.*

14 (b) *FUNCTIONS.*—*The functions of the Office shall in-*
15 *clude, 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 system*
21 *requirements under subsections (c) and (d) of that*
22 *section.*

23 (2) *Assisting small businesses and individuals in*
24 *addressing allegedly erroneous further action notices*
25 *and nonconfirmations issued under subsection (d) of*
26 *section 274A of the Immigration and Nationality Act.*

1 (3) *Informing small businesses and individuals*
2 *of the financial liabilities and criminal penalties that*
3 *apply to violations and failures to comply with the*
4 *requirements of section 274A of the Immigration and*
5 *Nationality Act, including, but not limited to, by*
6 *issuing best practices for compliance with that sec-*
7 *tion.*

8 (4) *To the extent practicable, proposing changes*
9 *to the Secretary in the administrative practices of the*
10 *employment verification system required under sub-*
11 *section (d) of section 274A of the Immigration and*
12 *Nationality Act to mitigate the problems identified*
13 *under paragraph (2).*

14 (5) *Making recommendations through the Sec-*
15 *retary to Congress for legislative action to mitigate*
16 *such problems.*

17 (c) *AUTHORITY TO ISSUE ASSISTANCE ORDER.—*

18 (1) *IN GENERAL.—Upon application filed by a*
19 *small business or individual with the Office (in such*
20 *form, manner, and at such time as the Secretary shall*
21 *by regulations prescribe), the Office may issue an as-*
22 *stance order if—*

23 (A) *the Office determines the small business*
24 *or individual is suffering or about to suffer a*
25 *significant hardship as a result of the manner in*

1 *which the employment verification laws under*
2 *subsections (c) and (d) of section 274A of the Im-*
3 *migration and Nationality Act are being admin-*
4 *istered by the Secretary; or*

5 *(B) the small business or individual meets*
6 *such other requirements as are set forth in regu-*
7 *lations prescribed by the Secretary.*

8 (2) *DETERMINATION OF HARDSHIP.—For pur-*
9 *poses of paragraph (1), a significant hardship shall*
10 *include—*

11 *(A) an immediate threat of adverse action;*

12 *(B) a delay of more than 60 days in resolv-*
13 *ing employment verification system problems;*

14 *(C) the incurring by the small business or*
15 *individual of significant costs if relief is not*
16 *granted; or*

17 *(D) irreparable injury to, or a long-term*
18 *adverse impact on, the small business or indi-*
19 *vidual if relief is not granted.*

20 (3) *STANDARDS WHEN ADMINISTRATIVE GUID-*
21 *ANCE NOT FOLLOWED.—In cases where a U.S. Citi-*
22 *zenship and Immigration Services employee is not*
23 *following applicable published administrative guid-*
24 *ance, the Office shall construe the factors taken into*
25 *account in determining whether to issue an assistance*

1 *order under this subsection in the manner most favor-*
2 *able to the small business or individual.*

3 (4) *TERMS OF ASSISTANCE ORDER.—The terms*
4 *of an assistance order under this subsection may re-*
5 *quire the Secretary within a specified time period—*

6 (A) *to determine whether any employee is*
7 *or is not authorized to work in the United*
8 *States; or*

9 (B) *to abate any penalty under section*
10 *274A of the Immigration and Nationality Act*
11 *that the Office determines is arbitrary, capri-*
12 *cious, or disproportionate to the underlying of-*
13 *fense.*

14 (5) *AUTHORITY TO MODIFY OR RESCIND.—Any*
15 *assistance order issued by the Office under this sub-*
16 *section may be modified or rescinded—*

17 (A) *only by the Office, the Director or Dep-*
18 *uty Director of U.S. Citizenship and Immigra-*
19 *tion Services, or the Secretary or the Secretary’s*
20 *designee; and*

21 (B) *if rescinded by the Director or Deputy*
22 *Director of U.S. Citizenship and Immigration*
23 *Services, only if a written explanation of the*
24 *reasons of such official for the modification or*
25 *rescission is provided to the Office.*

1 (6) *SUSPENSION OF RUNNING OF PERIOD OF LIM-*
2 *ITATION.—The running of any period of limitation*
3 *with respect to an action described in paragraph*
4 *(4)(A) shall be suspended for—*

5 *(A) the period beginning on the date of the*
6 *small business or individual's application under*
7 *paragraph (1) and ending on the date of the Of-*
8 *fice's decision with respect to such application;*
9 *and*

10 *(B) any period specified by the Office in an*
11 *assistance order issued under this subsection*
12 *pursuant to such application.*

13 (7) *INDEPENDENT ACTION OF OFFICE.—Nothing*
14 *in this subsection shall prevent the Office from taking*
15 *any action in the absence of an application under*
16 *paragraph (1).*

17 (d) *ACCESSIBILITY TO THE PUBLIC.—*

18 (1) *IN PERSON, ONLINE, AND TELEPHONE AS-*
19 *SISTANCE.—The Office shall provide information and*
20 *assistance specified in subsection (b) in person at lo-*
21 *cations designated by the Secretary, online through*
22 *an Internet website of the Department available to the*
23 *public, and by telephone.*

24 (2) *AVAILABILITY TO ALL EMPLOYERS.—In mak-*
25 *ing information and assistance available, the Office*

1 *shall prioritize the needs of small businesses and indi-*
2 *viduals. However, the information and assistance*
3 *available through the Office shall be available to any*
4 *employer.*

5 *(e) AVOIDING DUPLICATION THROUGH COORDINA-*
6 *TION.—In the discharge of the functions of the Office, the*
7 *Secretary shall consult with the Secretary of Labor, the Sec-*
8 *retary of Agriculture, the Commissioner, the Attorney Gen-*
9 *eral, the Equal Employment Opportunity Commission, and*
10 *the Administrator of the Small Business Administration in*
11 *order to avoid duplication of efforts across the Federal Gov-*
12 *ernment.*

13 *(f) DEFINITIONS.—In this section:*

14 *(1) The term “employer” has the meaning given*
15 *that term in section 274A(b) of the Immigration and*
16 *Nationality Act.*

17 *(2) The term “small business” means an em-*
18 *ployer with 49 or fewer employees.*

19 *(g) FUNDING.—There shall be appropriated, from the*
20 *Comprehensive Immigration Reform Trust Fund estab-*
21 *lished by section 6(a)(1) of this Act, such sums as may be*
22 *necessary to carry out the functions of the Office.*

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1 ***Subtitle B—Protecting United***
2 ***States Workers***

3 ***SEC. 3201. PROTECTIONS FOR VICTIMS OF SERIOUS VIOLA-***
4 ***TIONS OF LABOR AND EMPLOYMENT LAW OR***
5 ***CRIME.***

6 *(a) IN GENERAL.—Section 101(a)(15)(U) (8 U.S.C.*
7 *1101(a)(15)(U)) is amended—*

8 *(1) in clause (i)—*

9 *(A) by amending subclause (I) to read as*
10 *follows:*

11 *“(I) the alien—*

12 *“(aa) has suffered substantial*
13 *physical or mental abuse or substantial*
14 *harm as a result of having been a vic-*
15 *tim of criminal activity described in*
16 *clause (iii) or of a covered violation de-*
17 *scribed in clause (iv); or*

18 *“(bb) is a victim of criminal ac-*
19 *tivity described in clause (iii) or of a*
20 *covered violation described in clause*
21 *(iv) and would suffer extreme hardship*
22 *upon removal;”;*

23 *(B) in subclause (II), by inserting “, or a*
24 *covered violation resulting in a claim described*
25 *in clause (iv) that is not the subject of a frivo-*

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1 *lous lawsuit by the alien” before the semicolon at*
2 *the end; and*

3 *(C) by amending subclauses (III) and (IV)*
4 *to read as follows:*

5 *“(III) the alien (or in the case of an*
6 *alien child who is younger than 16 years of*
7 *age, the parent, legal guardian, or next*
8 *friend of the alien) has been helpful, is*
9 *being helpful, or is likely to be helpful to—*

10 *“(aa) a Federal, State, or local*
11 *law enforcement official, a Federal,*
12 *State, or local prosecutor, a Federal,*
13 *State, or local judge, the Department of*
14 *Homeland Security, the Equal Em-*
15 *ployment Opportunity Commission,*
16 *the Department of Labor, or other Fed-*
17 *eral, State, or local authorities inves-*
18 *tigating or prosecuting criminal activ-*
19 *ity described in clause (iii); or*

20 *“(bb) any Federal, State, or local*
21 *governmental agency or judge inves-*
22 *tigating, prosecuting, or seeking civil*
23 *remedies for any cause of action,*
24 *whether criminal, civil, or administra-*
25 *tive, arising from a covered violation*

1 *described in clause (iv) and presents a*
2 *certification from such Federal, State,*
3 *or local governmental agency or judge*
4 *attesting that the alien has been help-*
5 *ful, is being helpful, or is likely to be*
6 *helpful to such agency in the investiga-*
7 *tion, prosecution, or adjudication aris-*
8 *ing from a covered violation described*
9 *in clause (iv); and*

10 *“(IV) the criminal activity described*
11 *in clause (iii) or the covered violation de-*
12 *scribed in clause (iv)—*

13 *“(aa) violated the laws of the*
14 *United States; or*

15 *“(bb) occurred in the United*
16 *States (including Indian country and*
17 *military installations) or the terri-*
18 *tories and possessions of the United*
19 *States;”;*

20 *(2) in clause (i)(II), by striking “and” at the*
21 *end;*

22 *(3) by moving clause (iii) 2 ems to the left;*

23 *(4) in clause (iii), by inserting “child abuse;*
24 *elder abuse;” after “stalking;”;*

25 *(5) by adding at the end the following:*

1 “(iv) a covered violation referred to in this
2 clause is—

3 “(I) a serious violation involving 1 or more
4 of the following or any similar activity in viola-
5 tion of any Federal, State, or local law: serious
6 workplace abuse, exploitation, retaliation, or vio-
7 lation of whistleblower protections;

8 “(II) a violation giving rise to a civil cause
9 of action under section 1595 of title 18, United
10 States Code; or

11 “(III) a violation resulting in the depriva-
12 tion of due process or constitutional rights.”.

13 (b) SAVINGS PROVISION.—Nothing in section
14 101(a)(15)(U)(iv)(I) of the Immigration and Nationality
15 Act, as added by subsection (a), may be construed as alter-
16 ing the definition of retaliation or discrimination under
17 any other provision of law.

18 (c) TEMPORARY STAY OF REMOVAL.—Section 274A (8
19 U.S.C. 1324a), as amended by section 3101, is further
20 amended—

21 (1) in subsection (e) by adding at the end the fol-
22 lowing:

23 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—If
24 the Secretary undertakes an enforcement action at a
25 facility about which a bona fide workplace claim has

1 *been filed or is contemporaneously filed, or as a result*
2 *of information provided to the Secretary in retali-*
3 *ation against employees for exercising their rights re-*
4 *lated to a bona fide workplace claim, the Secretary*
5 *shall ensure that—*

6 *“(A) any aliens arrested or detained who*
7 *are necessary for the investigation or prosecution*
8 *of a bona fide workplace claim or criminal activ-*
9 *ity (as described in subparagraph (T) or (U) of*
10 *section 101(a)(15)) are not removed from the*
11 *United States until after the Secretary—*

12 *“(i) notifies the appropriate law en-*
13 *forcement agency with jurisdiction over*
14 *such violations or criminal activity; and*

15 *“(ii) provides such agency with the op-*
16 *portunity to interview such aliens;*

17 *“(B) no aliens entitled to a stay of removal*
18 *or abeyance of removal proceedings under this*
19 *section are removed; and*

20 *“(C) the Secretary shall stay the removal of*
21 *an alien who—*

22 *“(i) has filed a claim regarding a cov-*
23 *ered violation described in clause (iv) of sec-*
24 *tion 101(a)(15)(U) and is the victim of the*

1 *same violations under an existing investiga-*
2 *tion;*

3 “(ii) *is a material witness in any*
4 *pending or anticipated proceeding involving*
5 *a bona fide workplace claim or civil rights*
6 *claim; or*

7 “(iii) *has filed for relief under such*
8 *section if the alien is working with law en-*
9 *forcement as described in clause (i)(III) of*
10 *such section.”; and*

11 (2) *by adding at the end the following:*

12 “(m) *VICTIMS OF CRIMINAL ACTIVITY OR LABOR AND*
13 *EMPLOYMENT VIOLATIONS.—The Secretary of Homeland*
14 *Security may permit an alien to remain temporarily in*
15 *the United States and authorize the alien to engage in em-*
16 *ployment in the United States if the Secretary determines*
17 *that the alien—*

18 “(1) *has filed for relief under section*
19 *101(a)(15)(U); or*

20 “(2)(A) *has filed, or is a material witness to, a*
21 *bona fide claim or proceedings resulting from a cov-*
22 *ered violation (as defined in section*
23 *101(a)(15)(U)(iv)); and*

24 “(B) *has been helpful, is being helpful, or is like-*
25 *ly to be helpful, in the investigation, prosecution of,*

1 or pursuit of civil remedies related to the claim arising
2 from a covered violation, to—

3 “(i) a Federal, State, or local law enforcement
4 official;

5 “(ii) a Federal, State, or local prosecutor;

6 “(iii) a Federal, State, or local judge;

7 “(iv) the Department of Homeland Security;
8 rity;

9 “(v) the Equal Employment Opportunity
10 Commission; or

11 “(vi) the Department of Labor.”.

12 (d) *CONFORMING AMENDMENTS.*—Section 214(p) (8
13 *U.S.C. 1184(p)*) is amended—

14 (1) in paragraph (1), by striking “in section
15 101(a)(15)(U)(iii).” both places it appears and inserting
16 “in clause (iii) of section 101(a)(15)(U) or investigating,
17 prosecuting, or seeking civil remedies for
18 claims resulting from a covered violation described in
19 clause (iv) of such section.”; and

20 (2) in the first sentence of paragraph (6)—

21 (A) by striking “in section
22 101(a)(15)(U)(iii)” and inserting “in clause
23 (iii) of section 101(a)(15)(U) or claims resulting
24 from a covered violation described in clause (iv)
25 of such section”; and

1 (B) by inserting “or claim arising from a
2 covered violation” after “prosecution of such
3 criminal activity”.

4 (e) *MODIFICATION OF LIMITATION ON AUTHORITY TO*
5 *ADJUST STATUS FOR VICTIMS OF CRIMES.*—Section
6 *245(m)(1) (8 U.S.C. 1255(m)(1)) is amended, in the matter*
7 *before subparagraph (A), by inserting “or an investigation*
8 *or prosecution regarding a workplace or civil rights claim”*
9 *after “prosecution”.*

10 (f) *EXPANSION OF LIMITATION ON SOURCES OF INFOR-*
11 *MATION THAT MAY BE USED TO MAKE ADVERSE DETER-*
12 *MINATIONS.*—

13 (1) *IN GENERAL.*—Section *384(a)(1) of the Ille-*
14 *gal Immigration Reform and Immigrant Responsi-*
15 *bility Act of 1996 (8 U.S.C. 1367(a)(1)) is amend-*
16 *ed—*

17 (A) *in each of subparagraphs (A) through*
18 *(D), by striking the comma at the end and in-*
19 *serting a semicolon;*

20 (B) *subparagraph (E), by striking “the*
21 *criminal activity,” and inserting “abuse and the*
22 *criminal activity or bona fide workplace claim*
23 *(as defined in subsection (e));”;*

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1 (C) in subparagraph (F), by striking “, the
2 trafficker or perpetrator,” and inserting “), the
3 trafficker or perpetrator; or”; and

4 (D) by inserting after subparagraph (F) the
5 following:

6 “(G) the alien’s employer; or”.

7 (2) *WORKPLACE CLAIM DEFINED.*—Section 384
8 of such Act (8 U.S.C. 1367) is amended by adding at
9 the end the following:

10 “(e) *WORKPLACE CLAIMS.*—

11 “(1) *WORKPLACE CLAIMS DEFINED.*—

12 “(A) *IN GENERAL.*—In subsection (a)(1),
13 the term ‘workplace claim’ means any claim, pe-
14 tition, charge, complaint, or grievance filed with,
15 or submitted to, a Federal, State, or local agency
16 or court, relating to the violation of applicable
17 Federal, State, or local labor or employment
18 laws.

19 “(B) *CONSTRUCTION.*—Subparagraph (A)
20 may not be construed to alter what constitutes
21 retaliation or discrimination under any other
22 provision of law.

23 “(2) *PENALTY FOR FALSE CLAIMS.*—Any person
24 who knowingly presents a false or fraudulent claim to
25 a law enforcement official in relation to a covered

1 *violation described in section 101(a)(15)(U)(iv) of the*
2 *Immigration and Nationality Act for the purpose of*
3 *obtaining a benefit under this section shall be subject*
4 *to a civil penalty of not more than \$1,000.*

5 *“(3) LIMITATION ON STAY OF ADVERSE DETER-*
6 *MINATIONS.—In the case of an alien applying for sta-*
7 *tus under section 101(a)(15)(U) of the Immigration*
8 *and Nationality Act and seeking relief under that sec-*
9 *tion, the prohibition on adverse determinations under*
10 *subsection (a) shall expire on the date that the alien’s*
11 *application for status under such section is denied*
12 *and all opportunities for appeal of the denial have*
13 *been exhausted.”.*

14 *(g) REMOVAL PROCEEDINGS.—Section 239(e) (8*
15 *U.S.C. 1229(e)) is amended—*

16 *(1) in paragraph (1)—*

17 *(A) by striking “In cases where” and insert-*
18 *ing “If”; and*

19 *(B) by striking “paragraph (2),” and in-*
20 *serting “paragraph (2) or as a result of informa-*
21 *tion provided to the Secretary of Homeland Se-*
22 *curity in retaliation against individuals for ex-*
23 *ercising or attempting to exercise their employ-*
24 *ment rights or other legal rights,”; and*

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1 (2) *in paragraph (2), by adding at the end the*
2 *following:*

3 “(C) *At a facility about which a bona fide*
4 *workplace claim has been filed or is contempora-*
5 *neously filed.”.*

6 **SEC. 3202. EMPLOYMENT VERIFICATION SYSTEM EDU-**
7 **CATION FUNDING.**

8 (a) *DISPOSITION OF CIVIL PENALTIES.—Penalties col-*
9 *lected under subsections (e)(4) and (f)(3) of section 274A*
10 *of the Immigration and Nationality Act, amended by sec-*
11 *tion 3101, shall be deposited, as offsetting receipts, into the*
12 *Comprehensive Immigration Reform Trust Fund estab-*
13 *lished under section 6(a)(1).*

14 (b) *EXPENDITURES.—Amounts deposited into the*
15 *Trust Fund under subsection (a) shall be made available*
16 *to the Secretary and the Attorney General to provide edu-*
17 *cation to employers and employees regarding the require-*
18 *ments, obligations, and rights under the Employment*
19 *Verification System.*

20 (c) *DETERMINATION OF BUDGETARY EFFECTS.—*

21 (1) *EMERGENCY DESIGNATION FOR CONGRES-*
22 *SIONAL ENFORCEMENT.—In the Senate, amounts*
23 *made available under this section are designated as*
24 *an emergency requirement pursuant to section 403(a)*

1 *of S. Con. Res. 13 (111th Congress), the concurrent*
2 *resolution on the budget for fiscal year 2010.*

3 (2) *EMERGENCY DESIGNATION FOR STATUTORY*
4 *PAYGO.—Amounts made available under this section*
5 *are designated as an emergency requirement under*
6 *section 4(g) of the Statutory Pay-As-You-Go Act of*
7 *2010 (Public Law 111–139; 2 U.S.C. 933(g)).*

8 **SEC. 3203. DIRECTIVE TO THE UNITED STATES SEN-**
9 **TENCING COMMISSION.**

10 (a) *IN GENERAL.—Pursuant to its authority under*
11 *section 994 of title 28, United States Code, and in accord-*
12 *ance with subsection (b), the United States Sentencing*
13 *Commission shall promulgate sentencing guidelines or*
14 *amend existing sentencing guidelines to modify, if appro-*
15 *priate, the penalties imposed on persons convicted of of-*
16 *fenses under—*

17 (1) *section 274A of the Immigration and Nation-*
18 *ality Act (8 U.S.C. 1324a), as amended by section*
19 *3101;*

20 (2) *section 16 of the Fair Labor Standards Act*
21 *of 1938 (29 U.S.C. 216); and*

22 (3) *any other Federal law covering similar con-*
23 *duct.*

24 (b) *REQUIREMENTS.—In carrying out subsection (a),*
25 *the Sentencing Commission shall provide sentencing en-*

1 *hancements for any person convicted of an offense described*
2 *in subsection (a) if such offense involves—*

3 *(1) the intentional confiscation of identification*
4 *documents;*

5 *(2) corruption, bribery, extortion, or robbery;*

6 *(3) sexual abuse;*

7 *(4) serious bodily injury;*

8 *(5) an intent to defraud; or*

9 *(6) a pattern of conduct involving multiple vio-*
10 *lations of law that—*

11 *(A) creates, through knowing and inten-*
12 *tional conduct, a risk to the health or safety of*
13 *any victim; or*

14 *(B) denies payments due to victims for*
15 *work completed.*

16 ***Subtitle C—Other Provisions***

17 ***SEC. 3301. FUNDING.***

18 *(a) ESTABLISHMENT OF THE INTERIOR ENFORCE-*
19 *MENT ACCOUNT.—There is hereby established in the Treas-*
20 *ury of the United States an account which shall be known*
21 *as the Interior Enforcement Account.*

22 *(b) APPROPRIATIONS.—There are authorized to be ap-*
23 *propriated to the Interior Enforcement Account*
24 *\$1,000,000,000 to carry out this title and the amendments*
25 *made by this title, including the following appropriations:*

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1 (1) *In each of the 5 years beginning on the date*
2 *of the enactment of this Act, the appropriations nec-*
3 *essary to increase to a level not less than 5,000, by*
4 *the end of such 5-year period, the total number of per-*
5 *sonnel of the Department assigned exclusively or prin-*
6 *cipally to an office or offices in U.S. Citizenship and*
7 *Immigration Services and U.S. Immigration and*
8 *Customs Enforcement (and consistent with the mis-*
9 *sions of such agencies), dedicated to administering the*
10 *System, and monitoring and enforcing compliance*
11 *with sections 274A, 274B, and 274C of the Immigra-*
12 *tion and Nationality Act (8 U.S.C. 1324a, 1324b,*
13 *and 1324c), including compliance with the require-*
14 *ments of the Electronic Verification System estab-*
15 *lished under section 274A(d) of the Immigration and*
16 *Nationality Act (8 U.S.C. 1324a(d)), as amended by*
17 *section 3101. Such personnel shall perform compli-*
18 *ance and monitoring functions, including the fol-*
19 *lowing:*

20 (A) *Verify compliance of employers partici-*
21 *parting in such System with the requirements for*
22 *participation that are prescribed by the Sec-*
23 *retary.*

24 (B) *Monitor such System for multiple uses*
25 *of social security account numbers and immigra-*

1 *tion identification numbers that could indicate*
2 *identity theft or fraud.*

3 *(C) Monitor such System to identify dis-*
4 *criminatory or unfair practices.*

5 *(D) Monitor such System to identify em-*
6 *ployers who are not using such System properly,*
7 *including employers who fail to make available*
8 *appropriate records with respect to their queries*
9 *and any notices of confirmation, nonconfirma-*
10 *tion, or further action.*

11 *(E) Identify instances in which an em-*
12 *ployee alleges that an employer violated the em-*
13 *ployee's privacy or civil rights, or misused such*
14 *System, and create procedures for an employee to*
15 *report such an allegation.*

16 *(F) Analyze and audit the use of such Sys-*
17 *tem and the data obtained through such System*
18 *to identify fraud trends, including fraud trends*
19 *across industries, geographical areas, or em-*
20 *ployer size.*

21 *(G) Analyze and audit the use of such Sys-*
22 *tem and the data obtained through such System*
23 *to develop compliance tools as necessary to re-*
24 *spond to changing patterns of fraud.*

1 (H) Provide employers with additional
2 training and other information on the proper
3 use of such System, including training related to
4 privacy and employee rights.

5 (I) Perform threshold evaluation of cases for
6 referral to the Special Counsel for Immigration-
7 Related Unfair Employment Practices of the De-
8 partment of Justice or the Equal Employment
9 Opportunity Commission, and other officials or
10 agencies with responsibility for enforcing anti-
11 discrimination, civil rights, privacy, or worker
12 protection laws, as may be appropriate.

13 (J) Any other compliance and monitoring
14 activities that the Secretary determines are nec-
15 essary to ensure the functioning of such System.

16 (K) Investigate identity theft and fraud de-
17 tected through such System and undertake the
18 necessary enforcement or referral actions.

19 (L) Investigate use of or access to fraudu-
20 lent documents and undertake the necessary en-
21 forcement actions.

22 (M) Perform any other investigations that
23 the Secretary determines are necessary to ensure
24 the lawful functioning of such System, and un-

1 *dertake any enforcement actions necessary as a*
2 *result of such investigations.*

3 *(2) The appropriations necessary to acquire, in-*
4 *stall, and maintain technological equipment necessary*
5 *to support the functioning of such System and the*
6 *connectivity between U.S. Citizenship and Immigra-*
7 *tion Services and U.S. Immigration and Customs*
8 *Enforcement, the Department of Justice, and other*
9 *agencies or officials with respect to the sharing of in-*
10 *formation to support such System and related immi-*
11 *gration enforcement actions.*

12 *(3) The appropriations necessary to establish a*
13 *robust redress process for employees who wish to ap-*
14 *peal contested nonconfirmations to ensure the accu-*
15 *racy and fairness of such System.*

16 *(4) The appropriations necessary to provide a*
17 *means by which individuals may access their own*
18 *employment authorization data to ensure the accu-*
19 *racy of such data, independent of an individual's em-*
20 *ployer.*

21 *(5) The appropriations necessary to carry out*
22 *the identity authentication mechanisms described in*
23 *section 274A(c)(1)(F) of the Immigration and Nation-*
24 *ality Act, as amended by section 3101(a).*

1 (6) *The appropriations necessary for the Office*
2 *for Civil Rights and Civil Liberties and the Office of*
3 *Privacy of the Department to perform the responsibil-*
4 *ities of such Offices related to such System.*

5 (7) *The appropriations necessary to make grants*
6 *to States to support the States in assisting the Fed-*
7 *eral Government in carrying out the provisions of*
8 *this title and the amendments made by this title.*

9 (c) *ESTABLISHMENT OF REIMBURSABLE AGREEMENT*
10 *BETWEEN THE DEPARTMENT OF HOMELAND SECURITY*
11 *AND THE SOCIAL SECURITY ADMINISTRATION.—Effective*
12 *for fiscal years beginning on or after the date of enactment*
13 *of this Act, the Secretary and the Commissioner of Social*
14 *Security shall enter into and maintain an agreement*
15 *that—*

16 (1) *provides funds to the Commissioner for the*
17 *full costs of the responsibilities of the Commissioner*
18 *under this section, including—*

19 (A) *acquiring, installing, and maintaining*
20 *technological equipment and systems necessary*
21 *for the fulfillment of the responsibilities of the*
22 *Commissioner under this section; and*

23 (B) *responding to individuals who contest a*
24 *further action notice provided by the employ-*
25 *ment verification system established under sec-*

1 *tion 274A of the Immigration and Nationality*
2 *Act, as amended by section 3101;*

3 *(2) provides such funds quarterly in advance of*
4 *the applicable quarter based on estimating method-*
5 *ology agreed to by the Commissioner and the Sec-*
6 *retary; and*

7 *(3) requires an annual accounting and reconcili-*
8 *ation of the actual costs incurred and the funds pro-*
9 *vided under the agreement which shall be reviewed by*
10 *the Office of the Inspector General of the Social Secu-*
11 *urity Administration and the Department.*

12 *(d) AUTHORIZATION OF APPROPRIATIONS TO THE AT-*
13 *TORNEY GENERAL.—There are authorized to be appro-*
14 *priated to the Attorney General such sums as may be nec-*
15 *essary to carry out the provisions of this title and the*
16 *amendments made by this title, including enforcing compli-*
17 *ance with section 274B of the Immigration and Nationality*
18 *Act, as amended by section 3105.*

19 *(e) AUTHORIZATION OF APPROPRIATIONS TO THE SEC-*
20 *RETARY OF STATE.—There are authorized to be appro-*
21 *priated to the Secretary of State such sums as may be nec-*
22 *essary to carry out the provisions of this title and the*
23 *amendments made by this title.*

1 **SEC. 3302. EFFECTIVE DATE.**

2 *Except as otherwise specifically provided, this title and*
3 *the amendments made by this title shall take effect on the*
4 *date of the enactment of this Act.*

5 **SEC. 3303. MANDATORY EXIT SYSTEM.**

6 (a) *ESTABLISHMENT.*—

7 (1) *IN GENERAL.*—*Not later than December 31,*
8 *2015, the Secretary shall establish a mandatory exit*
9 *data system that shall include a requirement for the*
10 *collection of data from machine-readable visas, pass-*
11 *ports, and other travel and entry documents for all*
12 *categories of aliens who are exiting from air and sea*
13 *ports of entry.*

14 (2) *BIOMETRIC EXIT DATA SYSTEM.*—*Not later*
15 *than 2 years after the date of the enactment of this*
16 *Act, the Secretary shall establish a mandatory bio-*
17 *metric exit data system at the 10 United States air-*
18 *ports that support the highest volume of international*
19 *air travel, as determined by Department of Transpor-*
20 *tation international flight departure data.*

21 (3) *REPORT.*—*Not later than 3 years after the*
22 *date of the enactment of this Act, the Secretary shall*
23 *submit a report to Congress that analyzes the effec-*
24 *tiveness of biometric exit data collection at the 10 air-*
25 *ports referred to in paragraph (2).*

1 (4) *MANDATORY BIOMETRIC EXIT DATA SYS-*
2 *TEM.—Absent intervening action by Congress, the*
3 *Secretary, not later than 6 years after the date of the*
4 *enactment of this Act, shall establish a mandatory bi-*
5 *ometric exit data system at all the Core 30 inter-*
6 *national airports in the United States, as so des-*
7 *ignated by the Federal Aviation Administration.*

8 (5) *EXPANSION OF BIOMETRIC EXIT DATA SYS-*
9 *TEM TO MAJOR SEA AND LAND PORTS.—Not later*
10 *than 6 years after the date of the enactment of this*
11 *Act, the Secretary shall submit a plan to Congress for*
12 *the expansion of the biometric exit system to major*
13 *sea and land entry and exit points within the United*
14 *States based upon—*

15 (A) *the performance of the program estab-*
16 *lished pursuant to paragraph (2);*

17 (B) *the findings of the study conducted pur-*
18 *suant to paragraph (3); and*

19 (C) *the projected costs to develop and deploy*
20 *an effective biometric exit data system.*

21 (6) *DATA COLLECTION.—There are authorized to*
22 *be appropriated, from the Comprehensive Immigra-*
23 *tion Reform Trust Fund established under section*
24 *6(a)(1), such sums as may be necessary to carry out*
25 *this section*

1 (b) *INTEGRATION AND INTEROPERABILITY.*—

2 (1) *INTEGRATION OF DATA SYSTEM.*—*The Sec-*
3 *retary shall fully integrate all data from databases*
4 *and data systems that process or contain information*
5 *on aliens, which are maintained by—*

6 (A) *the Department, at—*

7 (i) *the U.S. Immigration and Customs*
8 *Enforcement;*

9 (ii) *the U.S. Customs and Border Pro-*
10 *tection; and*

11 (iii) *the U.S. Citizenship and Immi-*
12 *gration Services;*

13 (B) *the Department of Justice, at the Exec-*
14 *utive Office for Immigration Review; and*

15 (C) *the Department of State, at the Bureau*
16 *of Consular Affairs.*

17 (2) *INTEROPERABLE COMPONENT.*—*The fully in-*
18 *tegrated data system under paragraph (1) shall be an*
19 *interoperable component of the exit data system.*

20 (3) *INTEROPERABLE DATA SYSTEM.*—*The Sec-*
21 *retary shall fully implement an interoperable elec-*
22 *tronic data system to provide current and immediate*
23 *access to information in the databases of Federal law*
24 *enforcement agencies and the intelligence community*
25 *that is relevant to determine—*

1 (A) *whether to issue a visa; or*

2 (B) *the admissibility or deportability of an*
3 *alien.*

4 (4) *TRAINING.—The Secretary shall establish on-*
5 *going training modules on immigration law to im-*
6 *prove adjudications at United States ports of entry,*
7 *consulates, and embassies.*

8 (c) *INFORMATION SHARING.—The Secretary shall re-*
9 *port to the appropriate Federal law enforcement agency, in-*
10 *telligence agency, national security agency, or component*
11 *of the Department of Homeland Security any alien who*
12 *was lawfully admitted into the United States and whose*
13 *individual data in the integrated exit data system shows*
14 *that he or she has not departed the country when he or she*
15 *was legally required to do so, and shall ensure that—*

16 (1) *if the alien has departed the United States*
17 *when he or she was legally required to do so, the in-*
18 *formation contained in the integrated exit data sys-*
19 *tem is updated to reflect the alien's departure; or*

20 (2) *if the alien has not departed the United*
21 *States when he or she was legally required to do so,*
22 *reasonably available enforcement resources are em-*
23 *ployed to locate the alien and to commence removal*
24 *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 LO-*
8 *CATION.—The term “identity-theft resistant collection*
9 *location” means a location within an airport or sea-*
10 *port—*

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 rou-*
16 *tinely are available if an alien needs processing*
17 *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 INFORMA-*
26 *TION.—*

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 vessel*
4 *departing from the United States to any port or place*
5 *outside the United States shall ensure transmission to*
6 *U.S. Customs and Border Protection of identity-theft*
7 *resistant departure manifest information covering*
8 *alien passengers, crew, and non-crew. Such identity-*
9 *theft resistant departure manifest information—*

10 (A) *shall be transmitted to U.S. Customs*
11 *and Border Protection at the place and time*
12 *specified in paragraph (3) by means approved*
13 *by the Secretary; and*

14 (B) *shall set forth the information specified*
15 *in paragraph (4) or other information as re-*
16 *quired by the Secretary.*

17 (2) *MANNER OF COLLECTION.—Carriers board-*
18 *ing alien passengers, crew, and noncrew subject to the*
19 *requirement to provide information upon departure*
20 *for US-VISIT processing shall collect identity-theft re-*
21 *sistant departure manifest information from each*
22 *alien at an identity-theft resistant collection location*
23 *at the airport or seaport before boarding that alien on*
24 *transportation for departure from the United States,*
25 *at a time as close to the originally scheduled depar-*

1 *ture of that passenger's aircraft or sea vessel as prac-*
2 *ticable.*

3 (3) *TIME AND MANNER OF SUBMISSION.—*

4 (A) *IN GENERAL.—The appropriate official*
5 *specified in paragraph (1) shall ensure trans-*
6 *mission of the identity-theft resistant departure*
7 *manifest information required and collected*
8 *under paragraphs (1) and (2) to the Data Center*
9 *or Headquarters of U.S. Customs and Border*
10 *Protection, or such other data center as may be*
11 *designated.*

12 (B) *TRANSMISSION.—The biometric depar-*
13 *ture information may be transmitted to the De-*
14 *partment over any means of communication au-*
15 *thorized by the Secretary for the transmission of*
16 *other electronic manifest information containing*
17 *personally identifiable information and under*
18 *transmission standards currently applicable to*
19 *other electronic manifest information.*

20 (C) *SUBMISSION ALONG WITH OTHER IN-*
21 *FORMATION.—Files containing the identity-theft*
22 *resistant departure manifest information—*

23 (i) *may be sent with other electronic*
24 *manifest data prior to departure or may be*

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1 *sent separately from any topically related*
2 *electronic manifest data; and*

3 *(ii) may be sent in batch mode.*

4 (4) *INFORMATION REQUIRED.—The identity-theft*
5 *resistant departure information required under para-*
6 *graphs (1) through (3) for each covered passenger or*
7 *crew member shall contain alien data from machine-*
8 *readable visas, passports, and other travel and entry*
9 *documents issued to the alien.*

10 (c) *EXCEPTION.—The identity-theft resistant depar-*
11 *ture information specified in this section is not required*
12 *for any alien active duty military personnel traveling as*
13 *passengers on board a departing Department of Defense*
14 *commercial chartered aircraft.*

15 (d) *CARRIER MAINTENANCE AND USE OF IDENTITY-*
16 *THEFT RESISTANT DEPARTURE MANIFEST INFORMA-*
17 *TION.—Carrier use of identity-theft resistant departure*
18 *manifest information for purposes other than as described*
19 *in standards set by the Secretary is prohibited. Carriers*
20 *shall immediately notify the Chief Privacy Officer of the*
21 *Department in writing in the event of unauthorized use or*
22 *access, or breach, of identity-theft resistant departure mani-*
23 *fest information.*

24 (e) *COLLECTION AT SPECIFIED LOCATION.—If the Sec-*
25 *retary determines that an air or vessel carrier has not ade-*

1 *quately complied with the provisions of this section, the Sec-*
2 *retary may, in the Secretary's discretion, require the air*
3 *or vessel carrier to collect identity-theft resistant departure*
4 *manifest information at a specific location prior to the*
5 *issuance of a boarding pass or other document on the inter-*
6 *national departure, or the boarding of crew, in any port*
7 *through which the carrier boards aliens for international*
8 *departure under the supervision of the Secretary for such*
9 *period as the Secretary considers appropriate to ensure the*
10 *adequate collection and transmission of biometric departure*
11 *manifest information.*

12 *(f) FUNDING.—There shall be appropriated to the Inte-*
13 *rior Enforcement Account \$500,000,000 to reimburse car-*
14 *riers for their reasonable actual expenses in carrying out*
15 *their duties as described in this section.*

16 *(g) DETERMINATION OF BUDGETARY EFFECTS.—*

17 *(1) EMERGENCY DESIGNATION FOR CONGRES-*
18 *SIONAL ENFORCEMENT.—In the Senate, amounts*
19 *made available under this section are designated as*
20 *an emergency requirement pursuant to section 403(a)*
21 *of S. Con. Res. 13 (111th Congress), the concurrent*
22 *resolution on the budget for fiscal year 2010.*

23 *(2) EMERGENCY DESIGNATION FOR STATUTORY*
24 *PAYGO.—Amounts made available under this section*
25 *are designated as an emergency requirement under*

1 *section 4(g) of the Statutory Pay-As-You-Go Act of*
2 *2010 (Public Law 111–139; 2 U.S.C. 933(g)).*

3 **SEC. 3305. PROFILING.**

4 *(a) PROHIBITION.—In making routine or spontaneous*
5 *law enforcement decisions, such as ordinary traffic stops,*
6 *Federal law enforcement officers may not use race or eth-*
7 *nicity to any degree, except that officers may rely on race*
8 *and ethnicity if a specific suspect description exists.*

9 *(b) EXCEPTIONS.—*

10 *(1) SPECIFIC INVESTIGATION.—In conducting*
11 *activities in connection with a specific investigation,*
12 *Federal law enforcement officers may consider race*
13 *and ethnicity only to the extent that there is trust-*
14 *worthy information, relevant to the locality or time*
15 *frame, that links persons of a particular race or eth-*
16 *nicity to an identified criminal incident, scheme, or*
17 *organization. This standard applies even where the*
18 *use of race or ethnicity might otherwise be lawful.*

19 *(2) NATIONAL SECURITY.—In investigating or*
20 *preventing threats to national security or other cata-*
21 *strophic events (including the performance of duties*
22 *related to air transportation security), or in enforcing*
23 *laws protecting the integrity of the Nation’s borders,*
24 *Federal law enforcement officers may not consider*

1 *race or ethnicity except to the extent permitted by the*
2 *Constitution and laws of the United States.*

3 (3) *DEFINED TERM.*—*In this section, the term*
4 *“Federal law enforcement officer” means any officer,*
5 *agent, or employee of the United States authorized by*
6 *law or by a Government agency to engage in or su-*
7 *pervise the prevention, detection, investigation, or*
8 *prosecution of any violation of Federal law.*

9 (c) *STUDY AND REGULATIONS.*—

10 (1) *DATA COLLECTION.*—*Not later than 180 days*
11 *after the date of the enactment of this Act, the Sec-*
12 *retary shall begin collecting data regarding the indi-*
13 *vidualized immigration enforcement activities of cov-*
14 *ered Department officers.*

15 (2) *STUDY.*—*Not later than 180 days after data*
16 *collection under paragraph (1) commences, the Sec-*
17 *retary shall complete a study analyzing the data.*

18 (3) *REGULATIONS.*—*Not later than 90 days after*
19 *the date the study required by paragraph (2) is com-*
20 *pleted, the Secretary, in consultation with the Attor-*
21 *ney General, shall issue regulations regarding the use*
22 *of race, ethnicity, and any other suspect classifica-*
23 *tions the Secretary deems appropriate by covered De-*
24 *partment officers.*

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1 (4) *REPORTS.*—Not later than 30 days after
2 completion of the study required by paragraph (2),
3 the Secretary shall submit the study to—

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

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

8 (C) the Committee on Appropriations of the
9 Senate;

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

12 (E) the Committee on the Judiciary of the
13 Senate; and

14 (F) the Committee on the Judiciary of the
15 House of Representatives.

16 (5) *DEFINED TERM.*—In this subsection, the
17 term “covered Department officer” means any officer,
18 agent, or employee of United States Customs and
19 Border Protection, United States Immigration and
20 Customs Enforcement, or the Transportation Security
21 Administration.

22 **SEC. 3306. ENHANCED PENALTIES FOR CERTAIN DRUG OF-**
23 **FENSES ON FEDERAL LANDS.**

24 (a) *CULTIVATING OR MANUFACTURING CONTROLLED*
25 *SUBSTANCES ON FEDERAL PROPERTY.*—Section 401(b)(5)

1 *of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is*
2 *amended by striking “as provided in this subsection” and*
3 *inserting “for not more than 10 years, in addition to any*
4 *other term of imprisonment imposed under this sub-*
5 *section,”.*

6 (b) *USE OF HAZARDOUS SUBSTANCES.—Pursuant to*
7 *its authority under section 994 of title 28, United States*
8 *Code, the United States Sentencing Commission shall*
9 *amend the Federal Sentencing Guidelines and policy state-*
10 *ments to ensure that the guidelines provide an additional*
11 *penalty increase of 2 offense levels above the sentence other-*
12 *wise applicable for a violation of section 401(a) of the Con-*
13 *trolled Substances Act (21 U.S.C. 841(a)) if the offense—*

14 (1) *includes the use of a poison, chemical, or*
15 *other hazardous substance to cultivate or manufacture*
16 *controlled substances on Federal property;*

17 (2) *creates a hazard to humans, wildlife, or do-*
18 *mestic animals;*

19 (3) *degrades or harms the environment or nat-*
20 *ural resources; or*

21 (4) *pollutes an aquifer, spring, stream, river, or*
22 *body of water.*

23 (c) *STREAM DIVERSION OR CLEAR CUTTING ON FED-*
24 *ERAL PROPERTY.—*

1 (1) *PROHIBITION ON STREAM DIVERSION OR*
2 *CLEAR CUTTING ON FEDERAL PROPERTY.*—Section
3 *401(b) of the Controlled Substances Act is amended*
4 *by adding at the end the following:*

5 “(8) *DESTRUCTION OF BODIES OF WATER.*—Any
6 *person who violates subsection (a) in a manner that*
7 *diverts, redirects, obstructs, or drains an aquifer,*
8 *spring, stream, river, or body of water or clear cuts*
9 *timber while cultivating or manufacturing a con-*
10 *trolled substance on Federal property shall be fined in*
11 *accordance with title 18, United States Code.”.*

12 (2) *FEDERAL SENTENCING GUIDELINES EN-*
13 *HANCEMENT.*—Pursuant to its authority under sec-
14 *tion 994 of title 28, United States Code, the United*
15 *States Sentencing Commission shall amend the Fed-*
16 *eral Sentencing Guidelines and policy statements to*
17 *ensure that the guidelines provide an additional pen-*
18 *alty increase of 2 offense levels for above the sentence*
19 *otherwise applicable for a violation of section 401(a)*
20 *of the Controlled Substances Act (21 U.S.C. 841(a))*
21 *if the offense involves the diversion, redirection, ob-*
22 *struction, or draining of an aquifer, spring, stream,*
23 *river, or body of water or the clear cut of timber while*
24 *cultivating or manufacturing a controlled substance*
25 *on Federal property.*

1 (d) *BOOBY TRAPS ON FEDERAL LAND.*—Section
 2 401(d)(1) of the Controlled Substances Act (21 U.S.C.
 3 841(d)(1)) is amended by inserting “cultivated,” after “is
 4 being”.

5 (e) *USE OR POSSESSION OF FIREARMS IN CONNECTION*
 6 *WITH DRUG OFFENSES ON FEDERAL LANDS.*—Pursuant to
 7 its authority under section 994 of title 28, United States
 8 Code, the United States Sentencing Commission shall
 9 amend the Federal Sentencing Guidelines and policy state-
 10 ments to ensure that the guidelines provide an additional
 11 penalty increase of 2 offense levels above the sentence other-
 12 wise applicable for a violation of section 401(a) of the Con-
 13 trolled Substances Act (21 U.S.C. 841(a)) if the offense in-
 14 volves the possession of a firearm while cultivating or man-
 15 ufacturing controlled substances on Federal lands.

16 ***Subtitle D—Asylum and Refugee***
 17 ***Provisions***

18 ***SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF***
 19 ***GENUINE ASYLUM CLAIMS.***

20 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amended—

21 (1) in subparagraph (A), by inserting “or the
 22 Secretary of Homeland Security” after “Attorney
 23 General” both places such term appears;

24 (2) by striking subparagraphs (B) and (D);

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1 (3) *by redesignating subparagraph (C) as sub-*
2 *paragraph (B);*

3 (4) *in subparagraph (B), as redesignated, by*
4 *striking “subparagraph (D)” and inserting “subpara-*
5 *graphs (C) and (D)”;* and

6 (5) *by inserting after subparagraph (B), as re-*
7 *designated, the following:*

8 “(C) *CHANGED CIRCUMSTANCES.—Notwith-*
9 *standing subparagraph (B), an application for*
10 *asylum of an alien may be considered if the*
11 *alien demonstrates, to the satisfaction of the At-*
12 *torney General or the Secretary of Homeland Se-*
13 *curity, the existence of changed circumstances*
14 *that materially affect the applicant’s eligibility*
15 *for asylum.*

16 “(D) *MOTION TO REOPEN CERTAIN MERI-*
17 *TORIOUS CLAIMS.—Notwithstanding subpara-*
18 *graph (B) or section 240(c)(7), an alien may file*
19 *a motion to reopen an asylum claim during the*
20 *2-year period beginning on the date of the enact-*
21 *ment of the Border Security, Economic Oppor-*
22 *tunity, and Immigration Modernization Act if*
23 *the alien—*

24 “(i) *was denied asylum based solely*
25 *upon a failure to meet the 1-year applica-*

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1 *tion filing deadline in effect on the date on*
2 *which the application was filed;*

3 *“(ii) was granted withholding of re-*
4 *moval pursuant to section 241(b)(3) and*
5 *has not obtained lawful permanent resi-*
6 *dence in the United States pursuant to any*
7 *other provision of law;*

8 *“(iii) is not subject to the safe third*
9 *country exception under subparagraph (A)*
10 *or a bar to asylum under subsection (b)(2)*
11 *and should not be denied asylum as a mat-*
12 *ter of discretion; and*

13 *“(iv) is physically present in the*
14 *United States when the motion is filed.”.*

15 **SEC. 3402. REFUGEE FAMILY PROTECTIONS.**

16 *(a) CHILDREN OF REFUGEE OR ASYLEE SPOUSES AND*
17 *CHILDREN.—A child of an alien who qualifies for admis-*
18 *sion as a spouse or child under section 207(c)(2)(A) or*
19 *208(b)(3) of the Immigration and Nationality Act (8*
20 *U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to*
21 *the same status as such alien if the child—*

22 *(1) is accompanying or following to join such*
23 *alien; and*

1 (2) is otherwise eligible under section
2 207(c)(2)(A) or 208(b)(3) of the Immigration and Na-
3 tionality Act.

4 **SEC. 3403. CLARIFICATION ON DESIGNATION OF CERTAIN**
5 **REFUGEES.**

6 (a) *TERMINATION OF CERTAIN PREFERENTIAL TREAT-*
7 *MENT IN IMMIGRATION OF AMERASIANS.*—Section 584 of
8 *the Foreign Operations, Export Financing, and Related*
9 *Programs Appropriations Act, 1988 (8 U.S.C. 1101 note)*
10 *is amended by adding at the end the following:*

11 “(f) No visa may be issued under this section if the
12 petition or application for such visa is submitted on or after
13 the date of the enactment of the Border Security, Economic
14 Opportunity, and Immigration Modernization Act.”.

15 (b) *REFUGEE DESIGNATION.*—Section 207(c)(1) (8
16 U.S.C. 1157(c)(1)) is amended—

17 (1) by inserting “(A)” before “Subject to the nu-
18 merical limitations”; and

19 (2) by adding at the end the following:

20 “(B)(i) The President, upon a recommendation of the
21 Secretary of State made in consultation with the Secretary
22 of Homeland Security, and after appropriate consultation,
23 may designate specifically defined groups of aliens—

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1 “(I) whose resettlement in the United States is
2 justified by humanitarian concerns or is otherwise in
3 the national interest; and

4 “(II) who—

5 “(aa) share common characteristics that
6 identify them as targets of persecution on ac-
7 count of race, religion, nationality, membership
8 in a particular social group, or political opin-
9 ion; or

10 “(bb) having been identified as targets as
11 described in item (aa), share a common need for
12 resettlement due to a specific vulnerability.

13 “(ii) An alien who establishes membership in a group
14 designated under clause (i) to the satisfaction of the Sec-
15 retary of Homeland Security shall be considered a refugee
16 for purposes of admission as a refugee under this section
17 unless the Secretary determines that such alien ordered, in-
18 cited, assisted, or otherwise participated in the persecution
19 of any person on account of race, religion, nationality,
20 membership in a particular social group, or political opin-
21 ion.

22 “(iii) A designation under clause (i) is for purposes
23 of adjudicatory efficiency and may be revoked by the Presi-
24 dent at any time after notification to Congress.

1 “(iv) *Categories of aliens established under section*
2 *599D of the Foreign Operations, Export Financing, and*
3 *Related Programs Appropriations Act, 1990 (Public Law*
4 *101–167; 8 U.S.C. 1157 note)*—

5 “(I) *shall be designated under clause (i) until the*
6 *end of the first fiscal year commencing after the date*
7 *of the enactment of the Border Security, Economic*
8 *Opportunity, and Immigration Modernization Act;*
9 *and*

10 “(II) *shall be eligible for designation thereafter*
11 *at the discretion of the President, considering, among*
12 *other factors, whether a country under consideration*
13 *has been designated by the Secretary of State as a*
14 *‘Country of Particular Concern’ for engaging in or*
15 *tolerating systematic, ongoing, and egregious viola-*
16 *tions of religious freedom.*

17 “(v) *A designation under clause (i) shall not influence*
18 *decisions to grant, to any alien, asylum under section 208,*
19 *protection under section 241(b)(3), or protection under the*
20 *Convention Against Torture and Other Cruel, Inhuman or*
21 *Degrading Treatment or Punishment, done at New York*
22 *December 10, 1984.*

23 “(vi) *A decision to deny admission under this section*
24 *to an alien who establishes to the satisfaction of the Sec-*

1 *retary that the alien is a member of a group designated*
2 *under clause (i) shall—*

3 *“(I) be in writing; and*

4 *“(II) state, to the maximum extent feasible, the*
5 *reason for the denial.*

6 *“(vii) Refugees admitted pursuant to a designation*
7 *under clause (i) shall be subject to the number of admissions*
8 *and be admissible under this section.”.*

9 **SEC. 3404. ASYLUM DETERMINATION EFFICIENCY.**

10 *Section 235(b)(1)(B)(ii) (8 U.S.C. 1225(b)(1)(B)(ii))*
11 *is amended by striking “asylum.” and inserting “asylum*
12 *by an asylum officer. The asylum officer, after conducting*
13 *a nonadversarial asylum interview and seeking supervisory*
14 *review, may grant asylum to the alien under section 208*
15 *or refer the case to a designee of the Attorney General, for*
16 *a de novo asylum determination, for relief under the Con-*
17 *vention Against Torture and Other Cruel, Inhuman or De-*
18 *grading Treatment or Punishment, done at New York De-*
19 *cember 10, 1984, or for protection under section 241(b)(3).”.*

20 **SEC. 3405. STATELESS PERSONS IN THE UNITED STATES.**

21 *(a) IN GENERAL.—Chapter 1 of title II (8 U.S.C. 1151*
22 *et seq.) is amended by adding at the end the following:*

23 **“SEC. 210A. PROTECTION OF CERTAIN STATELESS PERSONS**
24 **IN THE UNITED STATES.**

25 *“(a) STATELESS PERSONS.—*

1 “(1) *IN GENERAL.*—*In this section, the term*
2 *‘stateless person’ means an individual who is not con-*
3 *sidered a national under the operation of the laws of*
4 *any country.*

5 “(2) *DESIGNATION OF SPECIFIC STATELESS*
6 *GROUPS.*—*The Secretary of Homeland Security, in*
7 *consultation with the Secretary of State, may, in the*
8 *discretion of the Secretary, designate specific groups*
9 *of individuals who are considered stateless persons,*
10 *for purposes of this section.*

11 “(b) *STATUS OF STATELESS PERSONS.*—

12 “(1) *RELIEF FOR CERTAIN INDIVIDUALS DETER-*
13 *MINED TO BE STATELESS PERSONS.*—*The Secretary of*
14 *Homeland Security or the Attorney General may, in*
15 *his or her discretion, provide conditional lawful sta-*
16 *tus to an alien who is otherwise inadmissible or de-*
17 *portable from the United States if the alien—*

18 “(A) *is a stateless person present in the*
19 *United States;*

20 “(B) *applies for such relief;*

21 “(C) *has not lost his or her nationality as*
22 *a result of his or her voluntary action or know-*
23 *ing inaction after arrival in the United States;*

1 “(D) except as provided in paragraphs (2)
2 and (3), is not inadmissible under section
3 212(a); and

4 “(E) is not described in section
5 241(b)(3)(B)(i).

6 “(2) *INAPPLICABILITY OF CERTAIN PROVI-*
7 *SIONS.—The provisions under paragraphs (4), (5),*
8 *(7), and (9)(B) of section 212(a) shall not apply to*
9 *any alien seeking relief under paragraph (1).*

10 “(3) *WAIVER.—The Secretary or the Attorney*
11 *General may waive any other provisions of such sec-*
12 *tion, other than subparagraphs (B), (C), (D)(ii), (E),*
13 *(G), (H), or (I) of paragraph (2), paragraph (3),*
14 *paragraph (6)(C)(i) (with respect to misrepresenta-*
15 *tions relating to the application for relief under para-*
16 *graph (1)), or subparagraphs (A), (C), (D), or (E) of*
17 *paragraph (10) of section 212(a), with respect to such*
18 *an alien for humanitarian purposes, to assure family*
19 *unity, or if it is otherwise in the public interest.*

20 “(4) *SUBMISSION OF PASSPORT OR TRAVEL DOC-*
21 *UMENT.—Any alien who seeks relief under this section*
22 *shall submit to the Secretary of Homeland Security*
23 *or the Attorney General—*

24 “(A) *any available passport or travel docu-*
25 *ment issued at any time to the alien (whether or*

1 *not the passport or document has expired or been*
2 *cancelled, rescinded, or revoked); or*

3 “(B) *an affidavit, sworn under penalty of*
4 *perjury—*

5 “(i) *stating that the alien has never*
6 *been issued a passport or travel document;*
7 *or*

8 “(ii) *identifying with particularity*
9 *any such passport or travel document and*
10 *explaining why the alien cannot submit it.*

11 “(5) *WORK AUTHORIZATION.—The Secretary of*
12 *Homeland Security may authorize an alien who has*
13 *applied for and is found prima facie eligible for or*
14 *been granted relief under paragraph (1) to engage in*
15 *employment in the United States.*

16 “(6) *TRAVEL DOCUMENTS.—The Secretary may*
17 *issue appropriate travel documents to an alien who*
18 *has been granted relief under paragraph (1) that*
19 *would allow him or her to travel abroad and be ad-*
20 *mitted to the United States upon return, if otherwise*
21 *admissible.*

22 “(7) *TREATMENT OF SPOUSE AND CHILDREN.—*
23 *The spouse or child of an alien who has been granted*
24 *conditional lawful status under paragraph (1) shall,*
25 *if not otherwise eligible for admission under para-*

1 *graph (1), be granted conditional lawful status under*
2 *this section if accompanying, or following to join,*
3 *such alien if—*

4 *“(A) the spouse or child is admissible (ex-*
5 *cept as otherwise provided in paragraphs (2)*
6 *and (3)) and is not described in section*
7 *241(b)(3)(B)(i); and*

8 *“(B) the qualifying relationship to the prin-*
9 *cipal beneficiary existed on the date on which*
10 *such alien was granted conditional lawful status.*

11 *“(c) ADJUSTMENT OF STATUS.—*

12 *“(1) INSPECTION AND EXAMINATION.—At the end*
13 *of the 1-year period beginning on the date on which*
14 *an alien has been granted conditional lawful status*
15 *under subsection (b), the alien may apply for lawful*
16 *permanent residence in the United States if—*

17 *“(A) the alien has been physically present*
18 *in the United States for at least 1 year;*

19 *“(B) the alien’s conditional lawful status*
20 *has not been terminated by the Secretary of*
21 *Homeland Security or the Attorney General,*
22 *pursuant to such regulations as the Secretary or*
23 *the Attorney General may prescribe; and*

24 *“(C) the alien has not otherwise acquired*
25 *permanent resident status.*

1 “(2) *REQUIREMENTS FOR ADJUSTMENT OF STA-*
2 *TUS.—The Secretary of Homeland Security or the At-*
3 *torney General, under such regulations as the Sec-*
4 *retary or the Attorney General may prescribe, may*
5 *adjust the status of an alien granted conditional law-*
6 *ful status under subsection (b) to that of an alien*
7 *lawfully admitted for permanent residence if such*
8 *alien—*

9 “(A) *is a stateless person;*

10 “(B) *properly applies for such adjustment*
11 *of status;*

12 “(C) *has been physically present in the*
13 *United States for at least 1 year after being*
14 *granted conditional lawful status under sub-*
15 *section (b);*

16 “(D) *is not firmly resettled in any foreign*
17 *country; and*

18 “(E) *is admissible (except as otherwise pro-*
19 *vided under paragraph (2) or (3) of subsection*
20 *(b)) as an immigrant under this chapter at the*
21 *time of examination of such alien for adjustment*
22 *of status.*

23 “(3) *RECORD.—Upon approval of an applica-*
24 *tion under this subsection, the Secretary of Homeland*
25 *Security shall establish a record of the alien’s admis-*

1 *sion for lawful permanent residence as of the date*
2 *that is 1 year before the date of such approval.*

3 “(4) *NUMERICAL LIMITATION.*—*The number of*
4 *aliens who may receive an adjustment of status under*
5 *this section for a fiscal year shall be subject to the nu-*
6 *merical limitation of section 203(b)(4).*

7 “(d) *PROVING THE CLAIM.*—*In determining an alien’s*
8 *eligibility for lawful conditional status or adjustment of*
9 *status under this subsection, the Secretary of Homeland Se-*
10 *curity or the Attorney General shall consider any credible*
11 *evidence relevant to the application. The determination of*
12 *what evidence is credible and the weight to be given that*
13 *evidence shall be within the sole discretion of the Secretary*
14 *or the Attorney General.*

15 “(e) *REVIEW.*—

16 “(1) *ADMINISTRATIVE REVIEW.*—*No appeal shall*
17 *lie from the denial of an application by the Secretary,*
18 *but such denial will be without prejudice to the*
19 *alien’s right to renew the application in proceedings*
20 *under section 240.*

21 “(2) *MOTIONS TO REOPEN.*—*Notwithstanding*
22 *any limitation imposed by law on motions to reopen*
23 *removal, deportation, or exclusion proceedings, any*
24 *individual who is eligible for relief under this section*
25 *may file a motion to reopen proceedings in order to*

1 *apply for relief under this section. Any such motion*
2 *shall be filed within 2 years of the date of the enact-*
3 *ment of the Border Security, Economic Opportunity,*
4 *and Immigration Modernization Act.*

5 “(f) *LIMITATION.*—

6 “(1) *APPLICABILITY.*—*The provisions of this sec-*
7 *tion shall only apply to aliens present in the United*
8 *States.*

9 “(2) *SAVINGS PROVISION.*—*Nothing in this sec-*
10 *tion may be construed to authorize or require—*

11 “(A) *the admission of any alien to the*
12 *United States;*

13 “(B) *the parole of any alien into the United*
14 *States; or*

15 “(C) *the grant of any motion to reopen or*
16 *reconsider filed by an alien after departure or*
17 *removal from the United States.”.*

18 (b) *JUDICIAL REVIEW.*—*Section 242(a)(2)(B)(ii) (8*
19 *U.S.C. 1252(a)(2)(B)(ii)) is amended by striking “208(a).”*
20 *and inserting “208(a) or 210A.”.*

21 (c) *CONFORMING AMENDMENT.*—*Section 203(b)(4) (8*
22 *U.S.C. 1153(b)(4)) is amended by inserting “to aliens*
23 *granted an adjustment of status under section 210A(c) or”*
24 *after “level.”.*

1 (d) *CLERICAL AMENDMENT.*—*The table of contents for*
2 *the Immigration and Nationality Act is amended by insert-*
3 *ing after the item relating to section 210 the following:*

 “*Sec. 210A. Protection of stateless persons in the United States.*”.

4 **SEC. 3406. U VISA ACCESSIBILITY.**

5 Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is
6 *amended by striking “10,000.” and inserting “18,000, of*
7 *which not more than 3,000 visas may be issued for aliens*
8 *who are victims of a covered violation described in section*
9 *101(a)(15)(U).”.*

10 **SEC. 3407. WORK AUTHORIZATION WHILE APPLICATIONS**
11 **FOR U AND T VISAS ARE PENDING.**

12 (a) *U VISAS.*—*Section 214(p) (8 U.S.C. 1184(p)), as*
13 *amended by section 3406 of this Act, is further amended—*

14 (1) *in paragraph (6), by striking the last sen-*
15 *tence; and*

16 (2) *by adding at the end the following:*

17 “(7) *WORK AUTHORIZATION.*—*Notwithstanding*
18 *any provision of this Act granting eligibility for em-*
19 *ployment in the United States, the Secretary of*
20 *Homeland Security shall grant employment author-*
21 *ization to an alien who has filed an application for*
22 *nonimmigrant status under section 101(a)(15)(U) on*
23 *the date that is the earlier of—*

24 “(A) *the date on which the alien’s applica-*
25 *tion for such status is approved; or*

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1 “(B) a date determined by the Secretary
2 that is not later than 180 days after the date on
3 which the alien filed the application.”.

4 (b) *T VISAS*.—Section 214(o) (8 U.S.C. 1184(o)) is
5 amended by adding at the end the following:

6 “(8) Notwithstanding any provision of this Act
7 granting eligibility for employment in the United
8 States, the Secretary of Homeland Security shall
9 grant employment authorization to an alien who has
10 filed an application for nonimmigrant status under
11 section 101(a)(15)(T) on the date that is the earlier
12 of—

13 “(A) the date on which the alien’s applica-
14 tion for such status is approved; or

15 “(B) a date determined by the Secretary
16 that is not later than 180 days after the date on
17 which the alien filed the application.”.

18 **SEC. 3408. REPRESENTATION AT OVERSEAS REFUGEE**

19 **INTERVIEWS.**

20 Section 207(c) (8 U.S.C. 1157(c)) is amended by add-
21 ing at the end the following:

22 “(5) The adjudicator of an application for ref-
23 ugee status under this section shall consider all rel-
24 evant evidence and maintain a record of the evidence
25 considered.

1 “(6) *An applicant for refugee status may be rep-*
2 *resented, including at a refugee interview, at no ex-*
3 *penditure to the Government, by an attorney or accredited*
4 *representative who—*

5 “(A) *was chosen by the applicant; and*

6 “(B) *is authorized by the Secretary of*
7 *Homeland Security to be recognized as the rep-*
8 *resentative of such applicant in an adjudication*
9 *under this section.*

10 “(7)(A) *A decision to deny an application for*
11 *refugee status under this section—*

12 “(i) *shall be in writing; and*

13 “(ii) *shall provide, to the maximum extent*
14 *feasible, information on the reason for the denial,*
15 *including—*

16 “(I) *the facts underlying the deter-*
17 *mination; and*

18 “(II) *whether there is a waiver of in-*
19 *admissibility available to the applicant.*

20 “(B) *The basis of any negative credibility find-*
21 *ing shall be part of the written decision.*

22 “(8)(A) *An applicant who is denied refugee sta-*
23 *tus under this section may file a request with the Sec-*
24 *retary for a review of his or her application not later*
25 *than 120 days after such denial.*

1 “(B) A request filed under subparagraph (A)
2 shall be adjudicated by refugee officers who have re-
3 ceived training on considering requests for review of
4 refugee applications that have been denied.

5 “(C) The Secretary shall publish the standard
6 applied to a request for review.

7 “(D) A request for review may result in the deci-
8 sion being granted, denied, or reopened for a further
9 interview.

10 “(E) A decision on a request for review under
11 this paragraph—

12 “(i) shall be in writing; and

13 “(ii) shall provide, to the maximum extent
14 feasible, information on the reason for the de-
15 nial.”.

16 **SEC. 3409. LAW ENFORCEMENT AND NATIONAL SECURITY**

17 **CHECKS.**

18 (a) **REFUGEES.**—Section 207(c)(1) (8 U.S.C.
19 1157(c)(1)) is amended by adding at the end the following:
20 “No alien shall be admitted as a refugee until the identity
21 of the applicant, including biographic and biometric data,
22 has been checked against all appropriate records or data-
23 bases maintained by the Secretary of Homeland Security,
24 the Attorney General, the Secretary of State, and other Fed-
25 eral records or databases that the Secretary of Homeland

1 *Security considers necessary, to determine any national se-*
2 *curity, law enforcement, or other grounds on which the*
3 *alien may be inadmissible to the United States or ineligible*
4 *to apply for or be granted refugee status.”.*

5 (b) *ASYLEES.*—Section 208(d)(5)(A)(i) (8 U.S.C.
6 1158(d)(5)(A)(i)) is amended to read as follows:

7 “(i) *asylum shall not be granted until*
8 *the identity of the applicant, using bio-*
9 *graphic and biometric data, has been*
10 *checked against all appropriate records or*
11 *databases maintained by the Secretary of*
12 *Homeland Security, the Attorney General,*
13 *the Secretary of State, and other Federal*
14 *records or databases that the Secretary of*
15 *Homeland Security considers necessary, to*
16 *determine any national security, law en-*
17 *forcement, or other grounds on which the*
18 *alien may be inadmissible to the United*
19 *States or ineligible to apply for or be grant-*
20 *ed asylum;”.*

21 **SEC. 3410. TIBETAN REFUGEE ASSISTANCE.**

22 (a) *SHORT TITLE.*—This section may be cited as the
23 “*Tibetan Refugee Assistance Act of 2013*”.

24 (b) *TRANSITION FOR DISPLACED TIBETANS.*—Not-
25 *withstanding the numerical limitations specified in sections*

1 *201 and 202 of the Immigration and Nationality Act (8*
2 *U.S.C. 1151 and 1152), 5,000 immigrant visas shall be*
3 *made available to qualified displaced Tibetans described in*
4 *subsection (c) during the 3-year period beginning on Octo-*
5 *ber 1, 2013.*

6 *(c) QUALIFIED DISPLACED TIBETAN DESCRIBED.—*

7 *(1) IN GENERAL.—An individual is a qualified*
8 *displaced Tibetan if such individual—*

9 *(A) is a native of Tibet; and*

10 *(B) has been continuously residing in India*
11 *or Nepal since before the date of the enactment*
12 *of this Act.*

13 *(2) NATIVE OF TIBET DESCRIBED.—For purposes*
14 *of paragraph (1)(A), an individual shall be consid-*
15 *ered a native of Tibet if such individual—*

16 *(A) was born in Tibet; or*

17 *(B) is the son, daughter, grandson, or*
18 *granddaughter of an individual who was born in*
19 *Tibet.*

20 *(d) DERIVATIVE STATUS FOR SPOUSES AND CHIL-*
21 *DREN.—A spouse or child (as defined in subparagraphs (A),*
22 *(B), (C), (D), or (E) of section 101(b)(1) of the Immigration*
23 *and Nationality Act (8 U.S.C. 1101(b)(1))) shall, if not oth-*
24 *erwise entitled to an immigrant status and the immediate*
25 *issuance of a visa under this section, be entitled to the same*

1 *status, and the same order of consideration, provided under*
2 *this section, if accompanying, or following to join, the*
3 *spouse or parent of such spouse or child.*

4 *(e) DISTRIBUTION OF VISA NUMBERS.—The Secretary*
5 *of State shall ensure that immigrant visas provided under*
6 *subsection (b) are made available to qualified displaced Ti-*
7 *betans described in subsection (c) or (d) in an equitable*
8 *manner, giving preference to those qualified displaced Ti-*
9 *betans who—*

10 *(1) are not resettled in India or Nepal; or*

11 *(2) are most likely to be resettled successfully in*
12 *the United States.*

13 **SEC. 3411. TERMINATION OF ASYLUM OR REFUGEE STATUS.**

14 *(a) TERMINATION OF STATUS.—Except as provided in*
15 *subsections (b) and (c), any alien who is granted asylum*
16 *or refugee status under this Act or the Immigration and*
17 *Nationality Act (8 U.S.C. 1101 et seq.), who, without good*
18 *cause as determined by the Secretary or the Attorney Gen-*
19 *eral, subsequently returns to the country of such alien's na-*
20 *tionality or, in the case of an alien having no nationality,*
21 *returns to any country in which such alien last habitually*
22 *resided, and who applied for such status because of persecu-*
23 *tion or a well-founded fear of persecution in that country*
24 *on account of race, religion, nationality, membership in a*

1 *particular social group, or political opinion, shall have his*
2 *or her refugee or asylum status terminated.*

3 (b) *WAIVER.—The Secretary has discretion to waive*
4 *subsection (a) if it is established to the satisfaction of the*
5 *Secretary or the Attorney General that the alien had good*
6 *cause for the return. The waiver may be sought prior to*
7 *departure from the United States or upon return.*

8 (c) *EXCEPTION FOR CERTAIN ALIENS FROM CUBA.—*
9 *Subsection (a) shall not apply to an alien who is eligible*
10 *for adjustment to that of an alien lawfully admitted for*
11 *permanent residence pursuant to the Cuban Adjustment Act*
12 *of 1966 (Public Law 89–732).*

13 **SEC. 3412. ASYLUM CLOCK.**

14 *Section 208(d)(2) is amended by striking “is not enti-*
15 *tled to employment authorization” and all that follows*
16 *through “prior to 180 days after” and inserting “shall be*
17 *provided employment authorization 180 days after”.*

18 ***Subtitle E—Shortage of Immigra-***
19 ***tion Court Resources for Re-***
20 ***moval Proceedings***

21 **SEC. 3501. SHORTAGE OF IMMIGRATION COURT PER-**
22 **SONNEL FOR REMOVAL PROCEEDINGS.**

23 (a) *IMMIGRATION COURT JUDGES.—The Attorney*
24 *General shall increase the total number of immigration*

1 *judges to adjudicate current pending cases and efficiently*
2 *process future cases by at least—*

3 (1) *75 in fiscal year 2014;*

4 (2) *75 in fiscal year 2015; and*

5 (3) *75 in fiscal year 2016.*

6 (b) *NECESSARY SUPPORT STAFF FOR IMMIGRATION*

7 *COURT JUDGES.—The Attorney General shall address the*
8 *shortage of support staff for immigration judges by ensur-*
9 *ing that each immigration judge has the assistance of the*
10 *necessary support staff, including the equivalent of 1 staff*
11 *attorney or law clerk and 1 legal assistant.*

12 (c) *ANNUAL INCREASES IN BOARD OF IMMIGRATION*

13 *APPEALS PERSONNEL.—The Attorney General shall in-*
14 *crease the number of Board of Immigration Appeals staff*
15 *attorneys (including the necessary additional support staff)*
16 *to efficiently process cases by at least—*

17 (1) *30 in fiscal year 2014;*

18 (2) *30 in fiscal year 2015; and*

19 (3) *30 in fiscal year 2016.*

20 (d) *FUNDING.—There shall be appropriated, from the*

21 *Comprehensive Immigration Reform Trust Fund estab-*
22 *lished under section 6(a)(1), such sums as may be necessary*
23 *to carry out this section.*

1 **SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY**
2 **AND REDUCING COSTS BY INCREASING AC-**
3 **CESS TO LEGAL INFORMATION.**

4 (a) CLARIFICATION REGARDING THE AUTHORITY OF
5 THE ATTORNEY GENERAL TO APPOINT COUNSEL TO
6 ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 (8
7 U.S.C. 1362) is amended—

8 (1) by inserting “(a)” before “In any”;

9 (2) by striking “(at no expense to the Govern-
10 ment)”;

11 (3) by striking “he shall” and inserting “the per-
12 son shall”; and

13 (4) by adding at the end the following:

14 “(b) The Government is not required to provide counsel
15 to aliens under subsection (a). However, the Attorney Gen-
16 eral may, in the Attorney General’s sole and unreviewable
17 discretion, appoint or provide counsel to aliens in immigra-
18 tion proceedings conducted under section 240 of this Act.”.

19 (b) APPOINTMENT OF COUNSEL IN CERTAIN CASES;
20 RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL
21 PROCEEDINGS.—Section 240(b) (8 U.S.C. 1229a(b)) is
22 amended—

23 (1) in paragraph (4)—

24 (A) by redesignating subparagraphs (B)
25 and (C) as subparagraphs (C) and (D), respec-
26 tively;

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1 (B) in subparagraph (A), by striking “, at
2 no expense to the Government,”;

3 (C) by inserting after subparagraph (A) the
4 following new subparagraph:

5 “(B) the alien shall, at the beginning of the
6 proceedings or at a reasonable time thereafter,
7 automatically receive a complete copy of all rel-
8 evant documents in the possession of the Depart-
9 ment of Homeland Security, including all docu-
10 ments (other than documents protected from dis-
11 closure by privilege, including national security
12 information referenced in subparagraph (C), law
13 enforcement sensitive information, and informa-
14 tion prohibited from disclosure pursuant to any
15 other provision of law) contained in the file
16 maintained by the Government that includes in-
17 formation with respect to all transactions involv-
18 ing the alien during the immigration process
19 (commonly referred to as an ‘A-file’), and all
20 documents pertaining to the alien that the De-
21 partment of Homeland Security has obtained or
22 received from other government agencies, unless
23 the alien waives the right to receive such docu-
24 ments by executing a knowing and voluntary

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1 *waiver in a language that he or she understands*
2 *fluently,”; and*

3 *(D) by adding at the end the following:*

4 *“The Government is not required to provide counsel*
5 *to aliens under this paragraph. However, the Attor-*
6 *ney General may, in the Attorney General’s sole and*
7 *unreviewable discretion, appoint or provide counsel at*
8 *government expense to aliens in immigration pro-*
9 *ceedings.”; and*

10 *(2) by adding at the end the following new para-*
11 *graph:*

12 *“(8) FAILURE TO PROVIDE ALIEN REQUIRED*
13 *DOCUMENTS.—In the absence of a waiver under sub-*
14 *paragraph (B) of paragraph (4), a removal pro-*
15 *ceeding may not proceed until the alien has received*
16 *the documents as required under such subpara-*
17 *graph.”.*

18 *(c) APPOINTMENT OF COUNSEL FOR UNACCOMPANIED*
19 *ALIEN CHILDREN AND ALIENS WITH A SERIOUS MENTAL*
20 *DISABILITY.—Section 292 (8 U.S.C. 1362), as amended by*
21 *subsection (a), is further amended by adding at the end the*
22 *following:*

23 *“(c) Notwithstanding subsection (b), the Attorney Gen-*
24 *eral shall appoint counsel, at the expense of the Government*
25 *if necessary, to represent an alien in a removal proceeding*

1 *who has been determined by the Secretary to be an unac-*
2 *companied alien child, is incompetent to represent himself*
3 *or herself due to a serious mental disability that would be*
4 *included in section 3(1) of the Americans with Disabilities*
5 *Act of 1990 (42 U.S.C. 12102(1)), or is considered particu-*
6 *larly vulnerable when compared to other aliens in removal*
7 *proceedings, such that the appointment of counsel is nec-*
8 *essary to help ensure fair resolution and efficient adjudica-*
9 *tion of the proceedings.”.*

10 (d) *FUNDING.—There shall be appropriated, from the*
11 *Comprehensive Immigration Reform Trust Fund estab-*
12 *lished under section 6(a)(1), such sums as may be necessary*
13 *to carry out this section and the amendments made by this*
14 *section.*

15 **SEC. 3503. OFFICE OF LEGAL ACCESS PROGRAMS.**

16 (a) *ESTABLISHMENT OF OFFICE OF LEGAL ACCESS*
17 *PROGRAMS.—The Attorney General shall maintain, within*
18 *the Executive Office for Immigration Review, an Office of*
19 *Legal Access Programs to develop and administer a system*
20 *of legal orientation programs to make immigration pro-*
21 *ceedings more efficient and cost effective by educating aliens*
22 *regarding administrative procedures and legal rights under*
23 *United States immigration law and to establish other pro-*
24 *grams to assist in providing aliens access to legal informa-*
25 *tion.*

1 (b) *LEGAL ORIENTATION PROGRAMS.*—*The legal ori-*
2 *entation programs—*

3 (1) *shall provide programs to assist detained*
4 *aliens in making informed and timely decisions re-*
5 *garding their removal and eligibility for relief from*
6 *removal in order to increase efficiency and reduce*
7 *costs in immigration proceedings and Federal custody*
8 *processes and to improve access to counsel and other*
9 *legal services;*

10 (2) *may provide services to detained aliens in*
11 *immigration proceedings under sections 235, 238,*
12 *240, and 241(a)(5) of the Immigration and Nation-*
13 *ality Act (8 U.S.C. 1225, 1228, 1229a, and*
14 *1231(a)(5)) and to other aliens in immigration and*
15 *asylum proceedings under sections 235, 238, and 240*
16 *of the Immigration and Nationality Act (8 U.S.C.*
17 *1225, 1228, and 1229a); and*

18 (3) *shall identify unaccompanied alien children,*
19 *aliens with a serious mental disability, and other*
20 *particularly vulnerable aliens for consideration by the*
21 *Attorney General pursuant to section 292(c) of the*
22 *Immigration and Nationality Act, as added by sec-*
23 *tion 3502(c).*

24 (c) *PROCEDURES.*—*The Secretary, in consultation*
25 *with the Attorney General, shall establish procedures that*

1 *ensure that legal orientation programs are available for all*
2 *detained aliens within 5 days of arrival into custody and*
3 *to inform such aliens of the basic procedures of immigration*
4 *hearings, their rights relating to those hearings under the*
5 *immigration laws, information that may deter such aliens*
6 *from filing frivolous legal claims, and any other informa-*
7 *tion deemed appropriate by the Attorney General, such as*
8 *a contact list of potential legal resources and providers.*

9 (d) *RULE OF CONSTRUCTION.*—*Nothing in this sub-*
10 *section shall be construed to create any substantive or proce-*
11 *dural right or benefit that is legally enforceable by any*
12 *party against the United States or its agencies or officers*
13 *or any other person.*

14 (e) *FUNDING.*—*There shall be appropriated, from the*
15 *Comprehensive Immigration Reform Trust Fund estab-*
16 *lished under section 6(a)(1), such sums as may be necessary*
17 *to carry out this section.*

18 **SEC. 3504. CODIFYING BOARD OF IMMIGRATION APPEALS.**

19 (a) *DEFINITION OF BOARD MEMBER.*—*Section 101(a)*
20 *(8 U.S.C. 1101(a)) is amended by adding at the end the*
21 *following:*

22 “(53) *The term ‘Board Member’ means an attor-*
23 *ney whom the Attorney General appoints to serve on*
24 *the Board of Immigration Appeals within the Execu-*
25 *tive Office of Immigration Review, and is qualified to*

1 *review decisions of immigration judges and other*
2 *matters within the jurisdiction of the Board of Immi-*
3 *gration Appeals.”.*

4 **(b) BOARD OF IMMIGRATION APPEALS.**—Section
5 240(a)(1) (8 U.S.C. 1229a(a)(1)) is amended by adding at
6 the end the following: “The Board of Immigration Appeals
7 and its Board Members shall review decisions of immigra-
8 tion judges under this section.”.

9 **(c) APPEALS.**—Section 240(b)(4) (8 U.S.C.
10 1229a(b)(4)), as amended by section 3502(b), is further
11 amended—

12 (1) in subparagraph (B), by striking “, and”
13 and inserting a semicolon;

14 (2) in subparagraph (C), by striking the period
15 and inserting “; and”; and

16 (3) by inserting after subparagraph (C) the fol-
17 lowing:

18 “(D) the alien or the Department of Home-
19 land Security may appeal the immigration
20 judge’s decision to a 3-judge panel of the Board
21 of Immigration Appeals.”.

22 **(d) DECISION AND BURDEN OF PROOF.**—Section
23 240(c)(1)(A) (8 U.S.C. 1229a(c)(1)(A)) is amended to read
24 as follows:

1 “(A) *IN GENERAL.*—*At the conclusion of the*
2 *proceeding, the immigration judge shall decide*
3 *whether an alien is removable from the United*
4 *States. The determination of the immigration*
5 *judge shall be based only on the evidence pro-*
6 *duced at the hearing. On appeal, the Board of*
7 *Immigration Appeals shall issue a written opin-*
8 *ion. The opinion shall address all dispositive ar-*
9 *guments raised by the parties. The panel may*
10 *incorporate by reference the opinion of the immi-*
11 *gration judge whose decision is being reviewed,*
12 *provided that the panel also addresses any argu-*
13 *ments made by the nonprevailing party regard-*
14 *ing purported errors of law, fact, or discretion.”.*

15 **SEC. 3505. IMPROVED TRAINING FOR IMMIGRATION**
16 **JUDGES AND BOARD MEMBERS.**

17 *(a) IN GENERAL.*—*Section 240 (8 U.S.C. 1229a) is*
18 *amended by adding at the end the following:*

19 “(f) *IMPROVED TRAINING.*—

20 “(1) *IMPROVED TRAINING FOR IMMIGRATION*
21 *JUDGES AND BOARD MEMBERS.*—

22 “(A) *IN GENERAL.*—*In consultation with*
23 *the Attorney General and the Director of the*
24 *Federal Judicial Center, the Director of the Ex-*
25 *ecutive Office for Immigration Review shall re-*

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1 *view and modify, as appropriate, training pro-*
2 *grams for immigration judges and Board Mem-*
3 *bers.*

4 “(B) *ELEMENTS OF REVIEW.—Each such*
5 *review shall study—*

6 “(i) *the expansion of the training pro-*
7 *gram for new immigration judges and*
8 *Board Members;*

9 “(ii) *continuing education regarding*
10 *current developments in the field of immi-*
11 *gration law; and*

12 “(iii) *methods to ensure that immigra-*
13 *tion judges are trained on properly crafting*
14 *and dictating decisions.*

15 “(2) *IMPROVED TRAINING AND GUIDANCE FOR*
16 *STAFF.—The Director of the Executive Office for Im-*
17 *migration Review shall—*

18 “(A) *modify guidance and training regard-*
19 *ing screening standards and standards of review;*
20 *and*

21 “(B) *ensure that Board Members provide*
22 *staff attorneys with appropriate guidance in*
23 *drafting decisions in individual cases, consistent*
24 *with the policies and directives of the Director of*
25 *the Executive Office for Immigration Review and*

1 *the Chairman of the Board of Immigration Ap-*
2 *peals.”.*

3 **(b) FUNDING.**—*There shall be appropriated, from the*
4 *Comprehensive Immigration Reform Trust Fund estab-*
5 *lished under section 6(a)(1), such sums as may be necessary*
6 *to carry out this section and the amendment made by this*
7 *section.*

8 **SEC. 3506. IMPROVED RESOURCES AND TECHNOLOGY FOR**
9 **IMMIGRATION COURTS AND BOARD OF IMMI-**
10 **GRATION APPEALS.**

11 **(a) IMPROVED ON-BENCH REFERENCE MATERIALS**
12 **AND DECISION TEMPLATES.**—*The Director of the Executive*
13 *Office for Immigration Review shall ensure that immigra-*
14 *tion judges are provided with updated reference materials*
15 *and standard decision templates that conform to the law*
16 *of the circuits in which they sit.*

17 **(b) PRACTICE MANUAL.**—*The Director of the Executive*
18 *Office for Immigration Review shall produce a practice*
19 *manual describing best practices for the immigration courts*
20 *and shall make such manual available electronically to*
21 *counsel and litigants who appear before the immigration*
22 *courts.*

23 **(c) RECORDING SYSTEM AND OTHER TECH-**
24 **NOLOGIES.**—

1 (1) *PLAN REQUIRED.*—*The Director of the Exec-*
2 *utive Office for Immigration Review shall provide the*
3 *Attorney General with a plan and a schedule to re-*
4 *place the immigration courts' tape recording system*
5 *with a digital recording system that is compatible*
6 *with the information management systems of the Ex-*
7 *ecutive Office for Immigration Review.*

8 (2) *AUDIO RECORDING SYSTEM.*—*Consistent with*
9 *the plan described in paragraph (1), the Director*
10 *shall pilot a digital audio recording system not later*
11 *than 1 year after the enactment of this Act, and shall*
12 *begin nationwide implementation of that system as*
13 *soon as practicable.*

14 (d) *IMPROVED TRANSCRIPTION SERVICES.*—*Not later*
15 *than 1 year after the enactment of this Act, the Director*
16 *of the Executive Office for Immigration Review shall report*
17 *to the Attorney General on the current transcription serv-*
18 *ices utilized by the Office and recommend improvements to*
19 *this system regarding quality and timeliness of tran-*
20 *scription.*

21 (e) *IMPROVED INTERPRETER SELECTION.*—*Not later*
22 *than 1 year after the enactment of this Act, the Director*
23 *of the Executive Office for Immigration Review shall report*
24 *to the Attorney General on the current interpreter selection*
25 *process utilized by the Office and recommend improvements*

1 *to this process regarding screening, hiring, certification,*
2 *and evaluation of staff and contract interpreters.*

3 (f) *FUNDING.—There shall be appropriated, from the*
4 *Comprehensive Immigration Reform Trust Fund estab-*
5 *lished under section 6(a)(1), such sums as may be necessary*
6 *to carry out this section.*

7 **SEC. 3507. TRANSFER OF RESPONSIBILITY FOR TRAF-**
8 **FICKING PROTECTIONS.**

9 (a) *TRANSFER OF RESPONSIBILITY.—*

10 (1) *IN GENERAL.—All unexpended balances ap-*
11 *propriated or otherwise available to the Department*
12 *of Health and Human Services and its Office of Ref-*
13 *ugee Resettlement in connection with the functions*
14 *provided for in paragraphs (5) and (6) of section*
15 *235(c) of the William Wilberforce Trafficking Victims*
16 *Protection Reauthorization Act of 2008 (8 U.S.C.*
17 *1232(c)), shall, subject to section 202 of the Budget*
18 *and Accounting Procedures Act of 1950, be trans-*
19 *ferred to the Department of Justice. Funds transferred*
20 *pursuant to this paragraph shall remain available*
21 *until expended and shall be used only for the purposes*
22 *for which the funds were originally authorized and*
23 *appropriated.*

24 (2) *CONTRACT AUTHORITY.—The Attorney Gen-*
25 *eral may award grants to, and enter into contracts*

1 to carry out the functions set forth in paragraphs (5)
2 and (6) of Section 235(c) of the William Wilberforce
3 Trafficking Victims Protection Reauthorization Act of
4 2008.

5 (b) *CONFORMING AMENDMENTS.*—Section 235(c) of the
6 William Wilberforce Trafficking Victims Protection Reau-
7 thorization Act of 2008 (8 U.S.C. 1232(c)) is amended—

8 (1) in paragraph (5)—

9 (A) by striking “Secretary of Health and
10 Human Services” each place it appears and in-
11 serting “Attorney General”; and

12 (B) by striking the last sentence; and

13 (2) in paragraph (6)—

14 (A) by striking “Secretary of Health and
15 Human Services” each place it appears and in-
16 serting “Attorney General”;

17 (B) in subparagraphs (B)(ii), (D), and (F),
18 by striking “Secretary” each place it appears
19 and inserting “Attorney General”; and

20 (C) in subparagraph (F), by striking “and
21 Human Services”.

1 ***Subtitle F—Prevention of Traf-***
2 ***ficking in Persons and Abuses***
3 ***Involving Workers Recruited***
4 ***Abroad***

5 ***SEC. 3601. DEFINITIONS.***

6 *(a) IN GENERAL.—Except as otherwise provided by*
7 *this subtitle, the terms used in this subtitle shall have the*
8 *same meanings, respectively, as are given those terms in*
9 *section 3 of the Fair Labor Standards Act of 1938 (29*
10 *U.S.C. 203).*

11 *(b) OTHER DEFINITIONS.—*

12 *(1) FOREIGN LABOR CONTRACTOR.—The term*
13 *“foreign labor contractor” means any person who per-*
14 *forms foreign labor contracting activity, including*
15 *any person who performs foreign labor contracting*
16 *activity wholly outside of the United States, except*
17 *that the term does not include any entity of the*
18 *United States Government.*

19 *(2) FOREIGN LABOR CONTRACTING ACTIVITY.—*
20 *The term “foreign labor contracting activity” means*
21 *recruiting, soliciting, or related activities with respect*
22 *to an individual who resides outside of the United*
23 *States in furtherance of employment in the United*
24 *States, including when such activity occurs wholly*
25 *outside of the United States.*

1 (3) *PERSON.*—*The term “person” means any*
2 *natural person or any corporation, company, firm,*
3 *partnership, joint stock company or association or*
4 *other organization or entity (whether organized under*
5 *law or not), including municipal corporations.*

6 (4) *WORKER.*—*the term “worker” means an in-*
7 *dividual or exchange visitor who is the subject of for-*
8 *ign labor contracting activity.*

9 **SEC. 3602. DISCLOSURE.**

10 (a) *REQUIREMENT FOR DISCLOSURE.*—*Any person*
11 *who engages in foreign labor contracting activity shall as-*
12 *certain and disclose in writing in English and in the pri-*
13 *mary language of the worker at the time of the worker’s*
14 *recruitment, the following information:*

15 (1) *The identity and address of the employer and*
16 *the identity and address of the person conducting the*
17 *recruiting on behalf of the employer, including any*
18 *subcontractor or agent involved in such recruiting.*

19 (2) *All assurances and terms and conditions of*
20 *employment, from the prospective employer for whom*
21 *the worker is being recruited, including the work*
22 *hours, level of compensation to be paid, the place and*
23 *period of employment, a description of the type and*
24 *nature of employment activities, any withholdings or*

1 *deductions from compensation and any penalties for*
2 *terminating employment.*

3 (3) *A signed copy of the work contract between*
4 *the worker and the employer.*

5 (4) *The type of visa under which the foreign*
6 *worker is to be employed, the length of time for which*
7 *the visa will be valid, the terms and conditions under*
8 *which the visa may be renewed, and a clear statement*
9 *of any expenses associated with securing or renewing*
10 *the visa.*

11 (5) *An itemized list of any costs or expenses to*
12 *be charged to the worker and any deductions to be*
13 *taken from wages, including any costs for housing or*
14 *accommodation, transportation to and from the work-*
15 *site, meals, health insurance, workers' compensation,*
16 *costs of benefits provided, medical examinations,*
17 *healthcare, tools, or safety equipment costs.*

18 (6) *The existence of any labor organizing effort,*
19 *strike, lockout, or other labor dispute at the place of*
20 *employment.*

21 (7) *Whether and the extent to which workers will*
22 *be compensated through workers' compensation, pri-*
23 *vate insurance, or otherwise for injuries or death, in-*
24 *cluding work-related injuries and death, during the*
25 *period of employment and, if so, the name of the*

1 *State workers' compensation insurance carrier or the*
2 *name of the policyholder of the private insurance, the*
3 *name and the telephone number of each person who*
4 *must be notified of an injury or death, and the time*
5 *period within which such notice must be given.*

6 *(8) A statement, in a form specified by the Sec-*
7 *retary—*

8 *(A) stating that—*

9 *(i) no foreign labor contractor, agent,*
10 *or employee of a foreign labor contractor,*
11 *may lawfully assess any fee (including visa*
12 *fees, processing fees, transportation fees,*
13 *legal expenses, placement fees, and other*
14 *costs) to a worker for any foreign labor con-*
15 *tracting activity; and*

16 *(ii) the employer may bear such costs*
17 *or fees for the foreign labor contractor, but*
18 *that these fees cannot be passed along to the*
19 *worker;*

20 *(B) explaining that—*

21 *(i) no additional significant require-*
22 *ments or changes may be made to the origi-*
23 *nal contract signed by the worker without*
24 *at least 24 hours to consider such changes*
25 *and the specific consent of the worker, ob-*

1 *tained voluntarily and without threat of*
2 *penalty; and*

3 *(ii) any significant changes made to*
4 *the original contract that do not comply*
5 *with clause (i) shall be a violation of this*
6 *subtitle and be subject to the provisions of*
7 *section 3610 of this Act; and*

8 *(C) describing the protections afforded the*
9 *worker by this section and by section 202 of the*
10 *William Wilberforce Trafficking Victims Protec-*
11 *tion Reauthorization Act of 2008 (8 U.S.C.*
12 *1375b) and any applicable visa program, includ-*
13 *ing—*

14 *(i) relevant information about the pro-*
15 *cedure for filing a complaint provided for*
16 *in section 3610; and*

17 *(ii) the telephone number for the na-*
18 *tional human trafficking resource center*
19 *hotline number.*

20 *(9) Any education or training to be provided or*
21 *required, including—*

22 *(A) the nature, timing, and cost of such*
23 *training;*

24 *(B) the person who will pay such costs;*

1 (C) *whether the training is a condition of*
2 *employment, continued employment, or future*
3 *employment; and*

4 (D) *whether the worker will be paid or re-*
5 *munerated during the training period, including*
6 *the rate of pay.*

7 (b) *RELATIONSHIP TO LABOR AND EMPLOYMENT*
8 *LAWS.—Nothing in the disclosure required by subsection (a)*
9 *shall constitute a legal conclusion as to the worker’s status*
10 *or rights under the labor and employment laws.*

11 (c) *PROHIBITION ON FALSE AND MISLEADING INFOR-*
12 *MATION.—No foreign labor contractor or employer who en-*
13 *gages in any foreign labor contracting activity shall know-*
14 *ingly provide materially false or misleading information to*
15 *any worker concerning any matter required to be disclosed*
16 *under subsection (a). The disclosure required by this section*
17 *is a document concerning the proper administration of a*
18 *matter within the jurisdiction of a department or agency*
19 *of the United States for the purposes of section 1519 of title*
20 *18, United States Code.*

21 **SEC. 3603. PROHIBITION ON DISCRIMINATION.**

22 (a) *IN GENERAL.—It shall be unlawful for an em-*
23 *ployer or a foreign labor contractor to fail or refuse to hire,*
24 *discharge, intimidate, threaten, restrain, coerce, or blacklist*
25 *any individual or otherwise discriminate against an indi-*

1 *vidual with respect to compensation, terms, conditions, or*
2 *privileges of employment, because of such individual's race,*
3 *color, creed, sex, national origin, religion, age, or disability.*

4 (b) *DETERMINATIONS OF DISCRIMINATION.—For the*
5 *purposes of determining the existence of unlawful discrimi-*
6 *nation under subsection (a)—*

7 (1) *in the case of a claim of discrimination*
8 *based on race, color, creed, sex, national origin, or re-*
9 *ligion, the same legal standards shall apply as are*
10 *applicable under title VII of the Civil Rights Act of*
11 *1964 (42 U.S.C. 2000e et seq.);*

12 (2) *in the case of a claim of discrimination*
13 *based on unlawful discrimination based on age, the*
14 *same legal standards shall apply as are applicable*
15 *under the Age Discrimination in Employment Act of*
16 *1967 (29 U.S.C. 621 et seq.); and*

17 (3) *in the case of a claim of discrimination*
18 *based on disability, the same legal standards shall*
19 *apply as are applicable under title I of the Americans*
20 *With Disabilities Act of 1990 (42 U.S.C. 12111 et*
21 *seq.).*

22 **SEC. 3604. RECRUITMENT FEES.**

23 *No employer, foreign labor contractor, or agent or em-*
24 *ployee of a foreign labor contractor, shall assess any fee (in-*
25 *cluding visa fees, processing fees, transportation fees, legal*

1 *expenses, placement fees, and other costs) to a worker for*
2 *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 ac-*
7 *tivity, any person who is a foreign labor contractor*
8 *or who, for any money or other valuable consideration*
9 *paid or promised to be paid, performs a foreign labor*
10 *contracting activity on behalf of a foreign labor con-*
11 *tractor, shall obtain a certificate of registration from*
12 *the Secretary of Labor pursuant to regulations pro-*
13 *mulgated by the Secretary under subsection (c).*

14 *(2) EXCEPTION FOR CERTAIN EMPLOYERS.—An*
15 *employer, or employee of an employer, who engages in*
16 *foreign labor contracting activity solely to find em-*
17 *ployees for that employer's own use, and without the*
18 *participation of any other foreign labor contractor,*
19 *shall not be required to register under this section.*

20 *(b) NOTIFICATION.—*

21 *(1) ANNUAL EMPLOYER NOTIFICATION.—Each*
22 *employer shall notify the Secretary, not less fre-*
23 *quently than once every year, of the identity of any*
24 *foreign labor contractor involved in any foreign labor*
25 *contracting activity for, or on behalf of, the employer,*

1 *including at a minimum, the name and address of*
2 *the foreign labor contractor, a description of the serv-*
3 *ices for which the foreign labor contractor is being*
4 *used, whether the foreign labor contractor is to receive*
5 *any economic compensation for the services, and, if*
6 *so, the identity of the person or entity who is paying*
7 *for the services.*

8 (2) *ANNUAL FOREIGN LABOR CONTRACTOR NOTI-*
9 *FICATION.—Each foreign labor contractor shall notify*
10 *the Secretary, not less frequently than once every*
11 *year, of the identity of any subcontractee, agent, or*
12 *foreign labor contractor employee involved in any for-*
13 *foreign labor contracting activity for, or on behalf of, the*
14 *foreign labor contractor.*

15 (3) *NONCOMPLIANCE NOTIFICATION.—An em-*
16 *ployer shall notify the Secretary of the identity of a*
17 *foreign labor contractor whose activities do not com-*
18 *ply with this subtitle.*

19 (4) *AGREEMENT.—Not later than 7 days after*
20 *receiving a request from the Secretary, an employer*
21 *shall provide the Secretary with the identity of any*
22 *foreign labor contractor with which the employer has*
23 *a contract or other agreement.*

24 (c) *REGULATIONS.—Not later than 180 days after the*
25 *date of the enactment of this Act, the Secretary shall pro-*

1515

1 *mulgate regulations to establish an efficient electronic proc-*
2 *ess for the timely investigation and approval of an applica-*
3 *tion for a certificate of registration of foreign labor contrac-*
4 *tors, including—*

5 *(1) a declaration, subscribed and sworn to by the*
6 *applicant, stating the applicant's permanent place of*
7 *residence, the foreign labor contracting activities for*
8 *which the certificate is requested, and such other rel-*
9 *evant information as the Secretary may require;*

10 *(2) a set of fingerprints of the applicant;*

11 *(3) an expeditious means to update registrations*
12 *and renew certificates;*

13 *(4) providing for the consent of any foreign labor*
14 *recruiter to the designation by a court of the Sec-*
15 *retary as an agent available to accept service of sum-*
16 *mons in any action against the applicant, if the ap-*
17 *plicant has left the jurisdiction in which the action*
18 *is commenced, otherwise has become unavailable to*
19 *accept service, or is subject to personal jurisdiction in*
20 *no State;*

21 *(5) providing for the consent of any foreign labor*
22 *recruiter to jurisdiction in the Department or any*
23 *Federal or State court in the United States for any*
24 *action brought by any aggrieved individual or work-*
25 *er;*

1 (6) *providing for cooperation in any investiga-*
2 *tion by the Secretary or other appropriate authorities;*

3 (7) *providing for consent to the forfeiture of the*
4 *bond for failure to cooperate with these provisions;*

5 (8) *providing for consent to be liable for viola-*
6 *tions of this subtitle by any agents or subcontractees*
7 *of any level in relation to the foreign labor con-*
8 *tracting activity of the agent or subcontractee to the*
9 *same extent as if the foreign labor contractor had*
10 *committed the violation; and*

11 (9) *providing for consultation with other appro-*
12 *priate Federal agencies to determine whether any rea-*
13 *son exists to deny registration to a foreign labor con-*
14 *tractor.*

15 (d) *TERM OF REGISTRATION.*—*Unless suspended or re-*
16 *voked, a certificate under this section shall be valid for 2*
17 *years.*

18 (e) *APPLICATION FEE.*—

19 (1) *REQUIREMENT FOR FEE.*—*In addition to*
20 *any other fees authorized by law, the Secretary shall*
21 *impose a fee, to be deposited in the general fund of*
22 *the Treasury, on a foreign labor contractor that sub-*
23 *mits an application for a certificate of registration*
24 *under this section.*

1517

1 (2) *AMOUNT OF FEE.*—*The amount of the fee re-*
2 *quired by paragraph (1) shall be set at a level that*
3 *the Secretary determines sufficient to cover the full*
4 *costs of carrying out foreign labor contract registra-*
5 *tion activities under this subtitle, including worker*
6 *education and any additional costs associated with*
7 *the administration of the fees collected.*

8 (f) *REFUSAL TO ISSUE; REVOCATION.*—*In accordance*
9 *with regulations promulgated by the Secretary, the Sec-*
10 *retary shall refuse to issue or renew, or shall revoke and*
11 *debar from eligibility to obtain a certificate of registration*
12 *for a period of not greater than 5 years, after notice and*
13 *an opportunity for a hearing, a certificate of registration*
14 *under this section if—*

15 (1) *the applicant for, or holder of, the certifi-*
16 *cation has knowingly made a material misrepresenta-*
17 *tion in the application for such certificate;*

18 (2) *the applicant for, or holder of, the certifi-*
19 *cation is not the real party in interest in the applica-*
20 *tion or certificate of registration and the real party*
21 *in interest—*

22 (A) *is a person who has been refused*
23 *issuance or renewal of a certificate;*

24 (B) *has had a certificate revoked; or*

1 (C) does not qualify for a certificate under
2 this section;

3 (3) the applicant for, or holder of, the certifi-
4 cation has been convicted within the preceding 5
5 years of—

6 (A) any felony under State or Federal law
7 or crime involving robbery, bribery, extortion,
8 embezzlement, grand larceny, burglary, arson,
9 violation of narcotics laws, murder, rape, assault
10 with intent to kill, assault which inflicts grievous
11 bodily injury, prostitution, peonage, or smug-
12 gling or harboring individuals who have entered
13 the United States illegally; or

14 (B) any crime relating to gambling, or to
15 the sale, distribution or possession of alcoholic
16 beverages, in connection with or incident to any
17 labor contracting activities; or

18 (4) the applicant for, or holder of, the certifi-
19 cation has materially failed to comply with this sec-
20 tion.

21 (g) *RE-REGISTRATION OF VIOLATORS.*—The Secretary
22 shall establish a procedure by which a foreign labor con-
23 tractor that has had its registration revoked under sub-
24 section (f) may seek to re-register under this subsection by
25 demonstrating to the Secretary's satisfaction that the for-

1 *foreign labor contractor has not violated this subtitle in the*
2 *previous 5 years and that the foreign labor contractor has*
3 *taken sufficient steps to prevent future violations of this*
4 *subtitle.*

5 **SEC. 3606. BONDING REQUIREMENT.**

6 (a) *IN GENERAL.*—*The Secretary shall require a for-*
7 *foreign labor contractor to post a bond in an amount sufficient*
8 *to ensure the ability of the foreign labor contractor to dis-*
9 *charge its responsibilities and to ensure protection of work-*
10 *ers, including wages.*

11 (b) *REGULATIONS.*—*The Secretary, by regulation,*
12 *shall establish the conditions under which the bond amount*
13 *is determined, paid, and forfeited.*

14 (c) *RELATIONSHIP TO OTHER REMEDIES.*—*The bond*
15 *requirements and forfeiture of the bond under this section*
16 *shall be in addition to other remedies under 3610 or any*
17 *other law.*

18 **SEC. 3607. MAINTENANCE OF LISTS.**

19 (a) *IN GENERAL.*—*The Secretary shall maintain—*

20 (1) *a list of all foreign labor contractors reg-*
21 *istered under this subsection, including—*

22 (A) *the countries from which the contractors*
23 *recruit;*

24 (B) *the employers for whom the contractors*
25 *recruit;*

1520

1 (C) the visa categories and occupations for
2 which the contractors recruit; and

3 (D) the States where recruited workers are
4 employed; and

5 (2) a list of all foreign labor contractors whose
6 certificate of registration the Secretary has revoked.

7 (b) *UPDATES; AVAILABILITY.*—The Secretary shall—

8 (1) update the lists required by subsection (a) on
9 an ongoing basis, not less frequently than every 6
10 months; and

11 (2) make such lists publicly available, including
12 through continuous publication on Internet websites
13 and in written form at and on the websites of United
14 States embassies in the official language of that coun-
15 try.

16 (c) *INTER-AGENCY AVAILABILITY.*—The Secretary
17 shall share the information described in subsection (a) with
18 the Secretary of State.

19 **SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-**
20 **TIONALITY ACT.**

21 Section 214 (8 U.S.C. 1184) is amended by adding
22 at the end the following:

23 “(s) A visa shall not be issued under the subparagraph
24 (A)(iii), (B)(i) (but only for domestic servants described in
25 clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code

1 *of Federal Regulations (as in effect on December 4, 2007)),*
2 *(G)(v), (H), (J), (L), (Q), (R), or (W) of section 101(a)(15)*
3 *until the consular officer—*

4 “(1) *has provided to and reviewed with the ap-*
5 *plicant, in the applicant’s language (or a language*
6 *the applicant understands), a copy of the information*
7 *and resources pamphlet required by section 202 of the*
8 *William Wilberforce Trafficking Victims Protection*
9 *Reauthorization Act of 2008 (8 U.S.C. 1375b); and*

10 “(2) *has reviewed and made a part of the visa*
11 *file the foreign labor recruiter disclosures required by*
12 *section 3602 of the Border Security, Economic Oppor-*
13 *tunity, and Immigration Modernization Act, includ-*
14 *ing whether the foreign labor recruiter is registered*
15 *pursuant to that section.”.*

16 **SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.**

17 (a) *IN GENERAL.—The Secretary of State shall ensure*
18 *that each United States diplomatic mission has a person*
19 *who shall be responsible for receiving information from any*
20 *worker who has been subject to violations of this 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 Jus-*
24 *tice, the Department of Labor, or any other relevant Federal*
25 *agency.*

1 (c) *MECHANISMS.—The Attorney General and the Sec-*
2 *retary shall ensure that there is a mechanism for any ac-*
3 *tions that need to be taken in response to information re-*
4 *ceived under subsection (a).*

5 (d) *ASSISTANCE FROM FOREIGN GOVERNMENT.—The*
6 *person designated for receiving information pursuant to*
7 *subsection (a) is strongly encouraged to coordinate with*
8 *governments and civil society organizations in the countries*
9 *of origin to ensure the worker receives additional support.*

10 (e) *MAINTENANCE AND AVAILABILITY OF INFORMA-*
11 *TION.—The Secretary of State shall ensure that consulates*
12 *maintain information regarding the identities of foreign*
13 *labor contractors and the employers to whom the foreign*
14 *labor contractors supply workers. The Secretary of State*
15 *shall make such information publicly available in written*
16 *form and online, including on the websites of United States*
17 *embassies in the official language of that country.*

18 (f) *ANNUAL PUBLIC DISCLOSE.—The Secretary of*
19 *State shall make publicly available online, on an annual*
20 *basis, data disclosing the gender, country of origin and*
21 *state, if available, date of birth, wage, level of training, and*
22 *occupation category, disaggregated by job and by visa cat-*
23 *egory and subcategory.*

1 **SEC. 3610. ENFORCEMENT PROVISIONS.**

2 (a) *COMPLAINTS AND INVESTIGATIONS.*—*The Sec-*
3 *retary—*

4 (1) *shall establish a process for the receipt, inves-*
5 *tigation, and disposition of complaints filed by any*
6 *person, including complaints respecting a foreign*
7 *labor contractor’s compliance with this subtitle; and*

8 (2) *either pursuant to the process required by*
9 *paragraph (1) or otherwise, may investigate employ-*
10 *ers or foreign labor contractors, including actions oc-*
11 *curring in a foreign country, as necessary to deter-*
12 *mine compliance with this subtitle.*

13 (b) *ENFORCEMENT.*—

14 (1) *IN GENERAL.*—*A worker who believes that he*
15 *or she has suffered a violation of this subtitle may*
16 *seek relief from an employer by—*

17 (A) *filing a complaint with the Secretary*
18 *within 3 years after the date on which the viola-*
19 *tion occurred or date on which the employee be-*
20 *came aware of the violation; or*

21 (B) *if the Secretary has not issued a final*
22 *decision within 120 days of the filing of the com-*
23 *plaint and there is no showing that such delay*
24 *is due to the bad faith of the claimant, bringing*
25 *an action at law or equity for de novo review in*
26 *the appropriate district court of the United*

1 *States, which shall have jurisdiction over such*
2 *an action without regard to the amount in con-*
3 *troversy.*

4 (2) *PROCEDURE.—*

5 (A) *IN GENERAL.—Unless otherwise pro-*
6 *vided herein, a complaint under paragraph*
7 *(1)(A) shall be governed under the rules and pro-*
8 *cedures set forth in paragraphs (1) and (2)(A) of*
9 *section 42121(b) of title 49, United States Code.*

10 (B) *EXCEPTION.—Notification of a com-*
11 *plaint under paragraph (1)(A) shall be made to*
12 *each person or entity named in the complaint as*
13 *a defendant and to the employer.*

14 (C) *STATUTE OF LIMITATIONS.—An action*
15 *filed in a district court of the United States*
16 *under paragraph (1)(B) shall be commenced not*
17 *later than 180 days after the last day of the 120-*
18 *day period referred to in that paragraph.*

19 (D) *JURY TRIAL.—A party to an action*
20 *brought under paragraph (1)(B) shall be entitled*
21 *to trial by jury.*

22 (c) *ADMINISTRATIVE ENFORCEMENT.—*

23 (1) *IN GENERAL.—If the Secretary finds, after*
24 *notice and an opportunity for a hearing, any foreign*
25 *labor contractor or employer failed to comply with*

1 *any of the requirements of this subtitle, the Secretary*
2 *may impose the following against such contractor or*
3 *employer—*

4 *(A) a fine in an amount not more than*
5 *\$10,000 per violation; and*

6 *(B) upon the occasion of a third violation*
7 *or a failure to comply with representations, a*
8 *fine of not more than \$25,000 per violation.*

9 *(d) AUTHORITY TO ENSURE COMPLIANCE.—The Sec-*
10 *retary is authorized to take other such actions, including*
11 *issuing subpoenas and seeking appropriate injunctive relief*
12 *and recovery of damages, as may be necessary to assure*
13 *compliance with the terms and conditions of this subtitle.*

14 *(e) BONDING.—Pursuant to the bonding requirement*
15 *in section 3606, bond liquidation and forfeitures shall be*
16 *in addition to other remedies under this section or any*
17 *other law.*

18 *(f) CIVIL ACTION.—*

19 *(1) IN GENERAL.—The Secretary or any person*
20 *aggrieved by a violation of this subtitle may bring a*
21 *civil action against any foreign labor contractor that*
22 *does not meet the requirements under subsection*
23 *(g)(2) in any court of competent jurisdiction—*

24 *(A) to seek remedial action, including in-*
25 *junctionive relief;*

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1 (B) to recover damages on behalf of any
2 worker harmed by a violation of this subsection;
3 and

4 (C) to ensure compliance with requirements
5 of this section.

6 (2) ACTIONS BY THE SECRETARY OF HOMELAND
7 SECURITY.—

8 (A) SUMS RECOVERED.—Any sums recov-
9 ered by the Secretary on behalf of a worker
10 under paragraph (1) or through liquidation of
11 the bond held pursuant to section 3606 shall be
12 held in a special deposit account and shall be
13 paid, on order of the Secretary, directly to each
14 worker affected. Any such sums not paid to a
15 worker because of inability to do so within a pe-
16 riod of 5 years shall be credited as an offsetting
17 collection to the appropriations account of the
18 Secretary for expenses for the administration of
19 this section and shall remain available to the
20 Secretary until expended or may be used for en-
21 forcement of the laws within the jurisdiction of
22 the wage and hour division or may be trans-
23 ferred to the Secretary of Health and Human
24 Services for the purpose of providing support to
25 programs that provide assistance to victims of

1 *trafficking in persons or other exploited persons.*
2 *The Secretary shall work with any attorney or*
3 *organization representing workers to locate work-*
4 *ers owed sums under this section.*

5 *(B) REPRESENTATION.—Except as provided*
6 *in section 518(a) of title 28, United States Code,*
7 *the Attorney General may appear for and rep-*
8 *resent the Secretary in any civil litigation*
9 *brought under this paragraph. All such litigation*
10 *shall be subject to the direction and control of the*
11 *Attorney General.*

12 *(3) ACTIONS BY INDIVIDUALS.—*

13 *(A) AWARD.—If the court finds in a civil*
14 *action filed by an individual under this section*
15 *that the defendant has violated any provision of*
16 *this subtitle (or any regulation issued pursuant*
17 *to this subtitle), the court may award—*

18 *(i) damages, up to and including an*
19 *amount equal to the amount of actual dam-*
20 *ages, and statutory damages of up to \$1,000*
21 *per plaintiff per violation, or other equi-*
22 *table relief, except that with respect to stat-*
23 *utory damages—*

24 *(I) multiple infractions of a single*
25 *provision of this subtitle (or of a regu-*

1 *lation under this subtitle) shall con-*
2 *stitute only 1 violation for purposes of*
3 *section 3602(a) to determine the*
4 *amount of statutory damages due a*
5 *plaintiff; and*

6 *(II) if such complaint is certified*
7 *as a class action the court may*
8 *award—*

9 *(aa) damages up to an*
10 *amount equal to the amount of*
11 *actual damages; and*

12 *(bb) statutory damages of not*
13 *more than the lesser of up to*
14 *\$1,000 per class member per vio-*
15 *lation, or up to \$500,000; and*
16 *other equitable relief;*

17 *(ii) reasonable attorneys' fees and*
18 *costs; and*

19 *(iii) such other and further relief, in-*
20 *cluding declaratory and injunctive relief, as*
21 *necessary to effectuate the purposes of this*
22 *subtitle.*

23 *(B) CRITERIA.—In determining the amount*
24 *of statutory damages to be awarded under sub-*
25 *paragraph (A), the court is authorized to con-*

1 *sider whether an attempt was made to resolve the*
2 *issues in dispute before the resort to litigation.*

3 (C) *BOND.*—*To satisfy the damages, fees,*
4 *and costs found owing under this clause, the Sec-*
5 *retary shall release as much of the bond held*
6 *pursuant to section 3606 as necessary.*

7 (D) *APPEAL.*—*Any civil action brought*
8 *under this section shall be subject to appeal as*
9 *provided in chapter 83 of title 28, United States*
10 *Code (28 U.S.C. 1291 et seq.).*

11 (E) *ACCESS TO LEGAL SERVICES CORPORA-*
12 *TION.*—*Notwithstanding any other provision of*
13 *law, the Legal Services Corporation and recipi-*
14 *ents of its funding may provide legal assistance*
15 *on behalf of any alien with respect to any provi-*
16 *sion of this subtitle.*

17 (g) *AGENCY LIABILITY.*—

18 (1) *IN GENERAL.*—*Beginning 180 days after the*
19 *Secretary has promulgated regulations pursuant to*
20 *section 3605(c), an employer who retains the services*
21 *of a foreign labor contractor shall only use those for-*
22 *ign labor contractors who are registered under sec-*
23 *tion 3605.*

24 (2) *SAFE HARBOR.*—*An employer shall not have*
25 *any liability under this section if the employer hires*

1 *workers referred by a foreign labor contractor that has*
2 *a valid registration with the Department pursuant to*
3 *section 3604.*

4 (3) *LIABILITY FOR AGENTS.—Foreign labor con-*
5 *tractors shall be subject to the provisions of this sec-*
6 *tion for violations committed by the foreign labor con-*
7 *tractor’s agents or subcontractees of any level in rela-*
8 *tion to their foreign labor contracting activity to the*
9 *same extent as if the foreign labor contractor had*
10 *committed the violation.*

11 (h) *RETALIATION.—*

12 (1) *IN GENERAL.—No person shall intimidate,*
13 *threaten, restrain, coerce, discharge, or in any other*
14 *manner discriminate or retaliate against any worker*
15 *or their family members (including a former em-*
16 *ployee or an applicant for employment) because such*
17 *worker disclosed information to any person that the*
18 *worker reasonably believes evidences a violation of*
19 *this section (or any rule or regulation pertaining to*
20 *this section), including seeking legal assistance of*
21 *counsel or cooperating with an investigation or other*
22 *proceeding concerning compliance with this section*
23 *(or any rule or regulation pertaining to this section).*

24 (2) *ENFORCEMENT.—An individual who is sub-*
25 *ject to any conduct described in paragraph (1) may,*

1 *in a civil action, recover appropriate relief, including*
2 *reasonable attorneys' fees and costs, with respect to*
3 *that violation. Any civil action under this subpara-*
4 *graph shall be stayed during the pendency of any*
5 *criminal action arising out of the violation.*

6 (i) *WAIVER OF RIGHTS.—Agreements by employees*
7 *purporting to waive or to modify their rights under this*
8 *subtitle shall be void as contrary to public policy.*

9 (j) *PRESENCE DURING PENDENCY OF ACTIONS.—*

10 (1) *IN GENERAL.—If other immigration relief is*
11 *not available, the Attorney General and the Secretary*
12 *shall grant advance parole to permit a nonimmigrant*
13 *to remain legally in the United States for time suffi-*
14 *cient to fully and effectively participate in all legal*
15 *proceedings related to any action taken pursuant to*
16 *this section.*

17 (2) *REGULATIONS.—Not later than 180 days*
18 *after the date of the enactment of this Act, the Sec-*
19 *retary shall promulgate regulations to carry out*
20 *paragraph (1).*

21 **SEC. 3611. DETECTING AND PREVENTING CHILD TRAF-**
22 **FICKING.**

23 *The Secretary shall mandate the live training of all*
24 *U.S. Customs and Border Protection personnel who are*
25 *likely to come into contact with unaccompanied alien chil-*

1 *dren. Such training shall incorporate the services of child*
2 *welfare professionals with expertise in culturally competent,*
3 *trauma-centered, and developmentally appropriate inter-*
4 *viewing skills to assist U.S. Customs and Border Protection*
5 *in the screening of children attempting to enter the United*
6 *States.*

7 **SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.**

8 (a) *SHORT TITLE.*—*This section may be cited as the*
9 *“Child Trafficking Victims Protection Act”.*

10 (b) *DEFINED TERM.*—*In this section, the term “unac-*
11 *companied alien children” has the meaning given such term*
12 *in section 462 of the Homeland Security Act of 2002 (6*
13 *U.S.C. 279).*

14 (c) *MANDATORY TRAINING.*—*The Secretary, in con-*
15 *sultation with the Secretary of Health and Human Services*
16 *and independent child welfare experts, shall mandate ap-*
17 *propriate training of all personnel who come into contact*
18 *with unaccompanied alien children in the relevant legal au-*
19 *thorities, policies, practices, and procedures pertaining to*
20 *this vulnerable population.*

21 (d) *CARE AND TRANSPORTATION.*—*Notwithstanding*
22 *any other provision of law, the Secretary shall ensure that*
23 *all unaccompanied alien children who will undergo any im-*
24 *migration proceedings before the Department or the Execu-*
25 *tive Office for Immigration Review are duly transported*

1 *and placed in the care and legal and physical custody of*
2 *the Office of Refugee Resettlement not later than 72 hours*
3 *after their apprehension absent exceptional circumstances,*
4 *including a natural disaster or comparable emergency be-*
5 *yond the control of the Secretary or the Office of Refugee*
6 *Resettlement. The Secretary, to the extent practicable, shall*
7 *ensure that female officers are continuously present during*
8 *the transfer and transport of female detainees who are in*
9 *the custody of the Department.*

10 *(e) QUALIFIED RESOURCES.—*

11 *(1) IN GENERAL.—The Secretary shall provide*
12 *adequately trained and qualified staff and resources,*
13 *including the accommodation of child welfare offi-*
14 *cials, in accordance with subsection (f), at U.S. Cus-*
15 *toms and Border Protection ports of entry and sta-*
16 *tions.*

17 *(2) CHILD WELFARE PROFESSIONALS.—The Sec-*
18 *retary of Health and Human Services, in consulta-*
19 *tion with the Secretary, shall hire, on a full- or part-*
20 *time basis, child welfare professionals who will pro-*
21 *vide assistance, either in person or by other appro-*
22 *prate methods of communication, in not fewer than*
23 *7 of the U.S. Customs and Border Protection offices*
24 *or stations with the largest number of unaccompanied*
25 *alien child apprehensions in the previous fiscal year.*

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1 (E) provide an initial family relationship
2 and trafficking assessment and recommendations
3 regarding unaccompanied alien children's initial
4 placements to the Office of Refugee Resettlement,
5 which shall be conducted in accordance with the
6 time frame set forth in subsections (a)(4) and
7 (b)(3) of section 235 of such Act (8 U.S.C. 1232);
8 and

9 (F) ensure that each unaccompanied alien
10 child in the custody of U.S. Customs and Border
11 Protection—

12 (i) receives emergency medical care
13 when necessary;

14 (ii) receives emergency medical and
15 mental health care that complies with the
16 standards adopted pursuant to section 8(c)
17 of the Prison Rape Elimination Act of 2003
18 (42 U.S.C. 15607(c)) whenever necessary,
19 including in cases in which a child is at
20 risk to harm himself, herself, or others;

21 (iii) is provided with climate appro-
22 priate clothing, shoes, basic personal hy-
23 giene and sanitary products, a pillow, lin-
24 ens, and sufficient blankets to rest at a com-
25 fortable temperature;

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- 1 (iv) receives adequate nutrition;
- 2 (v) enjoys a safe and sanitary living
- 3 environment;
- 4 (vi) has access to daily recreational
- 5 programs and activities if held for a period
- 6 longer than 24 hours;
- 7 (vii) has access to legal services and
- 8 consular officials; and
- 9 (viii) is permitted to make supervised
- 10 phone calls to family members.

11 (3) *FINAL DETERMINATIONS.*—*The Office of Ref-*

12 *ugee Resettlement in accordance with applicable poli-*

13 *cies and procedures for sponsors, shall submit final*

14 *determinations on family relationships to the Sec-*

15 *retary, who shall consider such adult relatives for*

16 *community-based support alternatives to detention.*

17 (4) *REPORT.*—*Not later than 18 months after the*

18 *date of the enactment of this Act, and annually there-*

19 *after, the Secretary shall submit a report to Congress*

20 *that—*

21 (A) *describes the screening procedures used*

22 *by the child welfare professionals to screen unac-*

23 *companied alien children;*

24 (B) *assesses the effectiveness of such*

25 *screenings; and*

1 *while in the temporary custody of the De-*
2 *partment; and*

3 (iii) *relevant complaint mechanisms to*
4 *report any abuse or misconduct they may*
5 *have experienced.*

6 (2) *LANGUAGES.—The Secretary shall ensure*
7 *that—*

8 (A) *the video orientation and written notice*
9 *of rights described in paragraph (1) is available*
10 *in English and in the 5 most common native*
11 *languages spoken by the unaccompanied children*
12 *held in custody at that location during the pre-*
13 *ceding fiscal year; and*

14 (B) *the oral notice of rights is available in*
15 *English and in the most common native lan-*
16 *guage spoken by the unaccompanied children*
17 *held in custody at that location during the pre-*
18 *ceding fiscal year.*

19 (i) *CONFIDENTIALITY.—The Secretary of Health and*
20 *Human Services shall maintain the privacy and confiden-*
21 *tiality of all information gathered in the course of pro-*
22 *viding care, custody, placement, and follow-up services to*
23 *unaccompanied alien children, consistent with the best in-*
24 *terest of the unaccompanied alien child, by not disclosing*

1 *such information to other government agencies or non-*
2 *parental third parties unless such disclosure is—*

3 *(1) recorded in writing and placed in the child’s*
4 *file;*

5 *(2) in the child’s best interest; and*

6 *(3)(A) authorized by the child or by an approved*
7 *sponsor in accordance with section 235 of the William*
8 *Wilberforce Trafficking Victims Protection Reauthor-*
9 *ization Act of 2008 (8 U.S.C. 1232) and the Health*
10 *Insurance Portability and Accountability Act (Public*
11 *Law 104–191); or*

12 *(B) provided to a duly recognized law enforce-*
13 *ment entity to prevent imminent and serious harm to*
14 *another individual.*

15 *(j) OTHER POLICIES AND PROCEDURES.—The Sec-*
16 *retary shall adopt fundamental child protection policies*
17 *and procedures—*

18 *(1) for reliable age determinations of children,*
19 *developed in consultation with medical and child wel-*
20 *fare experts, which exclude the use of fallible forensic*
21 *testing of children’s bone and teeth;*

22 *(2) to utilize all legal authorities to defer the*
23 *child’s removal if the child faces a risk of life-threat-*
24 *ening harm upon return including due to the child’s*
25 *mental health or medical condition; and*

1 (3) to ensure, in accordance with the *Juvenile*
2 *Justice and Delinquency Prevention Act of 1974* (42
3 *U.S.C. 5601 et seq.*), that unaccompanied alien chil-
4 *dren, while in detention, are—*

5 (A) *physically separated from any adult*
6 *who is not an immediate family member; and*

7 (B) *separated from—*

8 (i) *immigration detainees and inmates*
9 *with criminal convictions;*

10 (ii) *pretrial inmates facing criminal*
11 *prosecution; and*

12 (iii) *inmates exhibiting violent behav-*
13 *ior.*

14 (k) *REPATRIATION AND REINTEGRATION PROGRAM.—*

15 (1) *IN GENERAL.—The Administrator of the*
16 *United States Agency for International Development,*
17 *in conjunction with the Secretary, the Secretary of*
18 *Health and Human Services, the Attorney General,*
19 *international organizations, and nongovernmental or-*
20 *ganizations in the United States with expertise in re-*
21 *patiation and reintegration, shall create a multi-*
22 *year program to develop and implement best practices*
23 *and sustainable programs in the United States and*
24 *within the country of return to ensure the safe and*
25 *sustainable repatriation and reintegration of unac-*

1 *accompanied alien children into their country of na-*
2 *tionality or of last habitual residence, including*
3 *placement with their families, legal guardians, or*
4 *other sponsoring agencies.*

5 (2) *REPORT ON REPATRIATION AND REINTEGRA-*
6 *TION OF UNACCOMPANIED ALIEN CHILDREN.—Not*
7 *later than 18 months after the date of the enactment*
8 *of this Act, and annually thereafter, the Adminis-*
9 *trator of the Agency for International Development*
10 *shall submit a substantive report to the Committee on*
11 *the Judiciary of the Senate and the Committee on the*
12 *Judiciary of the House of Representatives on efforts*
13 *to improve repatriation and reintegration programs*
14 *for unaccompanied alien children.*

15 (1) *TRANSFER OF FUNDS.—*

16 (1) *AUTHORIZATION.—The Secretary, in accord-*
17 *ance with a written agreement between the Secretary*
18 *and the Secretary of Health and Human Services,*
19 *shall transfer such amounts as may be necessary to*
20 *carry out the duties described in subsection (f)(2)*
21 *from amounts appropriated for U.S. Customs and*
22 *Border Protection to the Department of Health and*
23 *Human Services.*

24 (2) *REPORT.—Not later than 15 days before any*
25 *proposed transfer under paragraph (1), the Secretary*

1 *of Health and Human Services, in consultation with*
2 *the Secretary, shall submit a detailed expenditure*
3 *plan that describes the actions proposed to be taken*
4 *with amounts transferred under such paragraph to—*

5 *(A) the Committee on Appropriations of the*
6 *Senate; and*

7 *(B) the Committee on Appropriations of the*
8 *House of Representatives.*

9 **SEC. 3613. BEST INTERESTS OF THE CHILD.**

10 *(a) IN GENERAL.—In all procedures and decisions*
11 *concerning unaccompanied immigrant children that are*
12 *made by Federal agencies, private agencies subcontracted*
13 *by the Federal Government, and Federal courts of law, pur-*
14 *suant to the Immigration and Nationality Act (8 U.S.C.*
15 *1101 et seq.), and regulations implementing such Act, the*
16 *best interests of the child shall be a primary consideration.*

17 *(b) JUVENILE COURT DETERMINATIONS.—Best inter-*
18 *ests determinations made by a juvenile court (as defined*
19 *in section 204.11(a) of title 8, Code of Federal Regulations)*
20 *shall be conclusive in assessing the best interests of the child*
21 *under this section.*

22 *(c) FACTORS.—In assessing the best interests of the*
23 *child, the entities referred to in subsection (a) shall consider,*
24 *in the context of the child's age and developmental needs—*

25 *(1) the views of the minor;*

1 (2) *safety and security considerations of the*
2 *child;*

3 (3) *family unity;*

4 (4) *the minor’s well-being and development, tak-*
5 *ing into particular consideration the minor’s ethnic,*
6 *religious, cultural, and linguistic background; and*

7 (5) *access to education.*

8 **SEC. 3614. RULE OF CONSTRUCTION.**

9 *Nothing in this subtitle shall be construed to preempt*
10 *or alter any other rights or remedies, including any causes*
11 *of action, available under any other Federal or State law.*

12 **SEC. 3615. REGULATIONS.**

13 *The Secretary shall, in consultation with the Secretary*
14 *of Labor, prescribe regulations to implement this subtitle*
15 *and to develop policies and procedures to enforce the provi-*
16 *sions of this subtitle.*

17 ***Subtitle G—Interior Enforcement***

18 **SEC. 3701. CRIMINAL STREET GANGS.**

19 (a) *INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C.*
20 *1182(a)(2)) is amended by inserting after subparagraph (I)*
21 *the following:*

22 “(J) *ALIENS IN CRIMINAL STREET GANGS.—*

23 “(i) *IN GENERAL.—Any alien is inad-*
24 *missible—*

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1 “(I) who has been convicted of an
2 offense for which an element was active
3 participation in a criminal street gang
4 (as defined in section 521(a) of title
5 18, United States Code) and the
6 alien—

7 “(aa) had knowledge that the
8 gang’s members engaged in or
9 have engaged in a continuing se-
10 ries of offenses described in section
11 521(c) of title 18, United States
12 Code; and

13 “(bb) acted with the inten-
14 tion to promote or further the felo-
15 nious activities of the criminal
16 street gang or maintain or in-
17 crease his or her position in the
18 gang; or

19 “(II) subject to clause (i), who is
20 18 years of age or older, who is phys-
21 ically present outside the United
22 States, whom the Secretary determines
23 by clear and convincing evidence,
24 based upon law enforcement informa-
25 tion deemed credible by the Secretary,

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1 *has, since the age of 18, knowingly and*
2 *willingly participated in a criminal*
3 *street gang with knowledge that such*
4 *participation promoted or furthered*
5 *the illegal activity of the gang.*

6 “(ii) *WAIVER.—The Secretary may*
7 *waive clause (i)(II) if the alien has re-*
8 *nounced all association with the criminal*
9 *street gang, is otherwise admissible, and is*
10 *not a threat to the security of the United*
11 *States.”.*

12 *(b) GROUNDS FOR DEPORTATION.—Section 237(a)(2)*
13 *(8 U.S.C. 1227(a)(2)) is amended by adding at the end the*
14 *following:*

15 “(G) *ALIENS ASSOCIATED WITH CRIMINAL*
16 *STREET GANGS.—Any alien is removable who*
17 *has been convicted of an offense for which an ele-*
18 *ment was active participation in a criminal*
19 *street gang (as defined in section 521(a) of title*
20 *18, United States Code), and the alien—*

21 “(i) *had knowledge that the gang’s*
22 *members engaged in or have engaged in a*
23 *continuing series of offenses described in*
24 *section 521(c) of title 18, United States*
25 *Code; and*

1 “(ii) acted with the intention to pro-
2 mote or further the felonious activities the
3 criminal street gang or increase his or her
4 position in such gang.”.

5 (c) *GROUND OF INELIGIBILITY FOR REGISTERED PRO-*
6 *VISIONAL IMMIGRANT STATUS.—*

7 (1) *IN GENERAL.—An alien who is 18 years of*
8 *age or older is ineligible for registered provisional im-*
9 *migrant status if the Secretary determines that the*
10 *alien—*

11 (A) *has been convicted of an offense for*
12 *which an element was active participation in a*
13 *criminal street gang (as defined in section*
14 *521(a) of title 18, United States Code, and the*
15 *alien—*

16 (i) *had knowledge that the gang’s mem-*
17 *bers engaged in or have engaged in a con-*
18 *tinuing series of offenses described in section*
19 *521(c) of title 18, United States Code; and*

20 (ii) *acted with the intention to promote*
21 *or further the felonious activities of the*
22 *criminal street gang or maintain or in-*
23 *crease his or her position in such gang; or*

24 (B) *subject to paragraph (2), any alien who*
25 *is 18 years of age or older whom the Secretary*

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1 *determines by clear and convincing evidence,*
2 *based upon law enforcement information deemed*
3 *credible by the Secretary, has, since the age of*
4 *18, knowingly and willingly participated in a*
5 *such gang with knowledge that such participa-*
6 *tion promoted or furthered the illegal activity of*
7 *such gang.*

8 (2) *WAIVER.—The Secretary may waive the ap-*
9 *plication of paragraph (1)(B) if the alien has re-*
10 *nounced all association with the criminal street gang,*
11 *is otherwise admissible, and is not a threat to the se-*
12 *curity of the United States.*

13 **SEC. 3702. BANNING HABITUAL DRUNK DRIVERS FROM THE**
14 **UNITED STATES.**

15 (a) *GROUND FOR INADMISSIBILITY.—Section*
16 *212(a)(2) (8 U.S.C. 1182(a)(2)), as amended by section*
17 *3701(a), is further amended—*

18 (1) *by redesignating subparagraph (F) as sub-*
19 *paragraph (L); and*

20 (2) *by inserting after subparagraph (E) the fol-*
21 *lowing:*

22 “(F) *HABITUAL DRUNK DRIVERS.—An alien*
23 *convicted of 3 or more offenses for driving under*
24 *the influence or driving while intoxicated on sep-*
25 *arate dates is inadmissible.”.*

1 **(b) GROUNDS FOR DEPORTATION.**—Section 237(a)(2)
2 *(8 U.S.C. 1227(a)(2))*, as amended by section 3701(b), is
3 *further amended by adding at the end the following:*

4 **“(H) HABITUAL DRUNK DRIVERS.**—An
5 *alien convicted of 3 or more offenses for driving*
6 *under the influence or driving while intoxicated,*
7 *at least 1 of which occurred after the date of the*
8 *enactment of the Border Security, Economic Op-*
9 *portunity, and Immigration Modernization Act,*
10 *is deportable.”.*

11 **(c) IN GENERAL.**—

12 **(1) AGGRAVATED FELONY.**—Section
13 *101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended*
14 *by striking “for which the term of imprisonment” and*
15 *inserting “, including a third drunk driving convic-*
16 *tion, for which the term of imprisonment is”.*

17 **(2) EFFECTIVE DATE AND APPLICATION.**—

18 **(A) EFFECTIVE DATE.**—The amendment
19 *made by paragraph (1) shall take effect on the*
20 *date of the enactment of this Act.*

21 **(B) APPLICATION.**—

22 **(i) IN GENERAL.**—Except as provided
23 *in subparagraph (ii), the amendment made*
24 *by paragraph (1) shall apply to a convic-*

1 *tion for drunk driving that occurred before,*
2 *on, or after such date of enactment.*

3 *(ii) TWO OR MORE PRIOR CONVIC-*
4 *TIONS.—An alien who received 2 or more*
5 *convictions for drunk driving may not be*
6 *subject to removal for the commission of an*
7 *aggravated felony pursuant to section*
8 *237(a)(2)(A)(iii) of the Immigration and*
9 *Nationality Act (8 U.S.C.*
10 *1227(a)(2)(A)(iii)) on the basis of such con-*
11 *victions until the date on which the alien is*
12 *convicted of a drunk driving offense after*
13 *such date of enactment.*

14 **SEC. 3703. SEXUAL ABUSE OF A MINOR.**

15 *Section 101(a)(43)(A) (8 U.S.C. 1101(a)(43)(A)) is*
16 *amended by striking “murder, rape, or sexual abuse of a*
17 *minor;” and inserting “murder, rape, or sexual abuse of*
18 *a minor, whether or not the minority of the victim is estab-*
19 *lished by evidence contained in the record of conviction or*
20 *by credible evidence extrinsic to the record of conviction;”.*

21 **SEC. 3704. ILLEGAL ENTRY.**

22 *(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is*
23 *amended to read as follows:*

24 **“SEC. 275. ILLEGAL ENTRY.**

25 *“(a) IN GENERAL.—*

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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 as*
6 *designated by the Secretary of Homeland Secu-*
7 *rity;*

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 vio-*
16 *lates 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 viola-*
21 *tion, 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 alien*
25 *had been convicted of 3 or more misdemeanors*

1 *with the convictions occurring on different dates*
2 *or of a felony for which the alien served a term*
3 *of imprisonment of 15 days or more, shall be*
4 *fined under such title, imprisoned not more than*
5 *10 years, or both; and*

6 “(D) *if the violation occurred after the alien*
7 *had been convicted of a felony for which the alien*
8 *was sentenced to a term of imprisonment of not*
9 *less than 30 months, shall be fined under such*
10 *title, imprisoned not more than 15 years, or*
11 *both.*

12 “(3) *PRIOR CONVICTIONS.—The prior convictions*
13 *described in subparagraphs (C) and (D) of paragraph*
14 *(2) are elements of the offenses described in that para-*
15 *graph and the penalties in such subparagraphs shall*
16 *apply only in cases in which the conviction or convic-*
17 *tions that form the basis for the additional penalty*
18 *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 as*
23 *part of a plea agreement.*

24 “(b) *IMPROPER TIME OR PLACE; CIVIL PENALTIES.—*
25 *Any alien older than 18 years of age who is apprehended*

1 *while knowingly entering, attempting to enter, or crossing*
2 *or attempting to cross the border to the United States at*
3 *a time or place other than as designated by immigration*
4 *officers shall be subject to a civil penalty, in addition to*
5 *any criminal or other civil penalties that may be imposed*
6 *under any other provision of law, in an amount equal to—*

7 “(1) *not less than \$250 or more than \$5,000 for*
8 *each such entry, crossing, attempted entry, or at-*
9 *tempted crossing; or*

10 “(2) *twice the amount specified in paragraph (1)*
11 *if the alien had previously been subject to a civil pen-*
12 *alty under this subsection.*

13 “(c) *FRAUDULENT MARRIAGE.—An individual who*
14 *knowingly enters into a marriage for the purpose of evading*
15 *any provision of the immigration laws shall be imprisoned*
16 *for not more than 5 years, fined not more than \$250,000,*
17 *or both.*

18 “(d) *COMMERCIAL ENTERPRISES.—Any individual*
19 *who knowingly establishes a commercial enterprise for the*
20 *purpose of evading any provision of the immigration laws*
21 *shall be imprisoned for not more than 5 years, fined in ac-*
22 *cordance with title 18, United States Code, or both.”.*

23 “(b) *CLERICAL AMENDMENT.—The table of contents is*
24 *amended by striking the item relating to section 275 and*
25 *inserting the following:*

“Sec. 275. *Illegal entry.*”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect 1 year after the date of the enact-*
3 *ment of this Act.*

4 **SEC. 3705. REENTRY OF REMOVED ALIEN.**

5 *Section 276 (8 U.S.C. 1326) is amended to read as*
6 *follows:*

7 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

8 “(a) *REENTRY AFTER REMOVAL.*—*Any alien who has*
9 *been denied admission, excluded, deported, or removed, or*
10 *who has departed the United States while an order of exclu-*
11 *sion, deportation, or removal is outstanding, and subse-*
12 *quently enters, attempts to enter, crosses the border to, at-*
13 *tempts to cross the border to, or is at any time found in*
14 *the United States, shall be fined under title 18, United*
15 *States Code, and imprisoned not more than 2 years.*

16 “(b) *REENTRY OF CRIMINAL OFFENDERS.*—*Notwith-*
17 *standing the penalty provided in subsection (a), if an alien*
18 *described in that subsection—*

19 “(1) *was convicted for 3 or more misdemeanors,*
20 *with the convictions occurring on different dates, be-*
21 *fore such removal or departure, the alien shall be*
22 *fined under title 18, United States Code, and impris-*
23 *oned not more than 10 years, or both;*

24 “(2) *was convicted for a felony before such re-*
25 *moval or departure for which the alien was sentenced*

1 *to a term of imprisonment of not less than 30 months,*
2 *the alien shall be fined under such title, and impris-*
3 *oned not more than 15 years, or both;*

4 *“(3) was convicted for a felony before such re-*
5 *moval or departure for which the alien was sentenced*
6 *to a term of imprisonment of not less than 60 months,*
7 *the alien shall be fined under such title, and impris-*
8 *oned not more than 20 years, or both;*

9 *“(4) was convicted for 3 felonies, with the convic-*
10 *tions occurring on different dates before such removal*
11 *or departure, the alien shall be fined under such title,*
12 *and imprisoned not more than 20 years, or both; or*

13 *“(5) was convicted, before such removal or depart-*
14 *ure, for murder, rape, kidnapping, or a felony offense*
15 *described in chapter 77 (relating to peonage and slav-*
16 *ery) or 113B (relating to terrorism) of such title, the*
17 *alien shall be fined under such title, and imprisoned*
18 *not more than 20 years, or both.*

19 *“(c) REENTRY AFTER REPEATED REMOVAL.—Any*
20 *alien who has been denied admission, excluded, deported,*
21 *or removed 3 or more times and thereafter enters, attempts*
22 *to enter, crosses the border to, attempts to cross the border*
23 *to, or is at any time found in the United States, shall be*
24 *fined under title 18, United States Code, and imprisoned*
25 *not more than 10 years, or both.*

1 “(d) *PROOF OF PRIOR CONVICTIONS.*—*The prior con-*
2 *victions described in subsection (b) are elements of the of-*
3 *fenses described in that subsection, and the penalties in such*
4 *subsection shall apply only in cases in which the conviction*
5 *or convictions that form the basis for the additional penalty*
6 *are—*

7 “(1) *alleged in the indictment or information;*
8 *and*

9 “(2) *proven beyond a reasonable doubt at trial*
10 *or admitted by the defendant under oath as part of*
11 *a plea agreement.*

12 “(e) *AFFIRMATIVE DEFENSES.*—*It shall be an affirma-*
13 *tive defense to a violation of this section that—*

14 “(1) *prior to the alleged violation, the alien had*
15 *sought and received the express consent of the Sec-*
16 *retary of Homeland Security to reapply for admis-*
17 *sion into the United States; or*

18 “(2) *at the time of the prior exclusion, deporta-*
19 *tion, removal, or denial of admission alleged in the*
20 *violation, the alien had not yet reached 18 years of*
21 *age and had not been convicted of a crime or adju-*
22 *dicated a delinquent minor by a court of the United*
23 *States, or a court of a state or territory, for conduct*
24 *that would constitute a felony if committed by an*
25 *adult.*

1 “(f) *LIMITATION ON COLLATERAL ATTACK ON UNDER-*
2 *LYING DEPORTATION ORDER.*—*In a criminal proceeding*
3 *under this section, an alien may not challenge the validity*
4 *of the deportation order described in subsection (a) or sub-*
5 *section (c) unless the alien demonstrates that—*

6 “(1) *the alien exhausted any administrative rem-*
7 *edies that may have been available to seek relief*
8 *against the order;*

9 “(2) *the deportation proceedings at which the*
10 *order was issued improperly deprived the alien of the*
11 *opportunity for judicial review; and*

12 “(3) *the entry of the order was fundamentally*
13 *unfair.*

14 “(g) *REENTRY OF ALIEN REMOVED PRIOR TO COM-*
15 *PLETION OF TERM OF IMPRISONMENT.*—*Any alien removed*
16 *pursuant to section 241(a)(4) who enters, attempts to enter,*
17 *crosses the border to, attempts to cross the border to, or is*
18 *at any time found in, the United States shall be incarcer-*
19 *ated for the remainder of the sentence of imprisonment*
20 *which was pending at the time of deportation without any*
21 *reduction for parole or supervised release unless the alien*
22 *affirmatively demonstrates that the Secretary of Homeland*
23 *Security has expressly consented to the alien’s reentry or*
24 *the alien is prima facie eligible for protection from removal.*
25 *Such alien shall be subject to such other penalties relating*

1 *to the reentry of removed aliens as may be available under*
2 *this section or any other provision of law.*

3 “(h) *LIMITATION.*—*It is not aiding and abetting a vio-*
4 *lation of this section for an individual to provide an alien*
5 *with emergency humanitarian assistance, including emer-*
6 *gency medical care and food, or to transport the alien to*
7 *a location where such assistance can be rendered without*
8 *compensation or the expectation of compensation.*

9 “(i) *DEFINITIONS.*—*In this section:*

10 “(1) *FELONY.*—*The term ‘felony’ means any*
11 *criminal offense punishable by a term of imprison-*
12 *ment of more than 1 year under the laws of the*
13 *United States, any State, or a foreign government.*

14 “(2) *MISDEMEANOR.*—*The term ‘misdemeanor’*
15 *means any criminal offense punishable by a term of*
16 *imprisonment of not more than 1 year under the ap-*
17 *plicable laws of the United States, any State, or a*
18 *foreign government.*

19 “(3) *REMOVAL.*—*The term ‘removal’ includes*
20 *any denial of admission, exclusion, deportation, or re-*
21 *moval, or any agreement by which an alien stipulates*
22 *or agrees to exclusion, deportation, or removal.*

23 “(4) *STATE.*—*The term ‘State’ means a State of*
24 *the United States, the District of Columbia, and any*

1 *commonwealth, territory, or possession of the United*
2 *States.”.*

3 **SEC. 3706. PENALTIES RELATED TO REMOVAL.**

4 *(a) PENALTIES RELATING TO VESSELS AND AIR-*
5 *CRAFT.—Section 243(c) (8 U.S.C. 1253(c)) is amended—*

6 *(1) by striking “Attorney General” each place*
7 *such term appears and inserting “Secretary of Home-*
8 *land Security”;*

9 *(2) by striking “Commissioner” each place such*
10 *term appears and inserting “Secretary of Homeland*
11 *Security”; and*

12 *(3) in paragraph (1)—*

13 *(A) in subparagraph (A), by striking*
14 *“\$2,000” and inserting “\$5,000”;*

15 *(B) in subparagraph (B), by striking*
16 *“\$5,000” and inserting “\$10,000”;*

17 *(C) by amending subparagraph (C) to read*
18 *as follows:*

19 *“(C) COMPROMISE.—The Secretary of*
20 *Homeland Security, in the Secretary’s*
21 *unreviewable discretion and upon the receipt of*
22 *a written request, may mitigate the monetary*
23 *penalties required under this subsection for each*
24 *alien stowaway to an amount equal to not less*

1 *than \$2,000, upon such terms that the Secretary*
2 *determines to be appropriate.”; and*

3 *(D) by inserting at the end the following:*

4 *“(D) EXCEPTION.—A person, acting with-*
5 *out compensation or the expectation of com-*
6 *ensation, is not subject to penalties under this*
7 *paragraph if the person is—*

8 *“(i) providing, or attempting to pro-*
9 *vide, an alien with humanitarian assist-*
10 *ance, including emergency medical care or*
11 *food or water; or*

12 *“(ii) transporting the alien to a loca-*
13 *tion where such humanitarian assistance*
14 *can be rendered without compensation or*
15 *the expectation of compensation.”.*

16 **SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
17 **FRAUD OFFENSES.**

18 *(a) TRAFFICKING IN PASSPORTS.—Section 1541 of*
19 *title 18, United States Code, is amended to read as follows:*

20 **“§ 1541. Trafficking in passports**

21 *“(a) MULTIPLE PASSPORTS.—Subject to subsection*
22 *(b), any person who, during any period of 3 years or less,*
23 *knowingly—*

24 *“(1) and without lawful authority produces,*
25 *issues, or transfers 3 or more passports;*

1 “(2) forges, counterfeits, alters, or falsely makes
2 3 or more passports;

3 “(3) secures, possesses, uses, receives, buys, sells,
4 or distributes 3 or more passports, knowing the pass-
5 ports to be forged, counterfeited, altered, falsely made,
6 stolen, procured by fraud, or produced or issued with-
7 out lawful authority; or

8 “(4) completes, mails, prepares, presents, signs,
9 or submits 3 or more applications for a United States
10 passport, knowing the applications to contain any
11 materially false statement or representation,
12 shall be fined under this title, imprisoned not more than
13 20 years, or both.

14 “(b) *USE IN A TERRORISM OFFENSE.*—Any person
15 who commits an offense described in subsection (a) to facili-
16 tate an act of international terrorism (as defined in section
17 2331) shall be fined under this title, imprisoned not more
18 than 25 years, or both.

19 “(c) *PASSPORT MATERIALS.*—Any person who know-
20 ingly and without lawful authority produces, buys, sells,
21 possesses, or uses any official material (or counterfeit of any
22 official material) used to make 10 or more passports, in-
23 cluding any distinctive paper, seal, hologram, image, text,
24 symbol, stamp, engraving, or plate, shall be fined under this
25 title, imprisoned not more than 20 years, or both.”.

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1 “(B) in which or to which the application
2 was mailed or presented.

3 “(2) *OFFENSES OUTSIDE THE UNITED STATES.*—
4 *An offense under subsection (a) involving an applica-*
5 *tion prepared and adjudicated outside the United*
6 *States may be prosecuted in the district in which the*
7 *resultant passport was or would have been produced.*

8 “(c) *SAVINGS CLAUSE.*—*Nothing in this section may*
9 *be construed to limit the venue otherwise available under*
10 *sections 3237 and 3238 of this title.”.*

11 (c) *MISUSE OF A PASSPORT.*—*Section 1544 of title 18,*
12 *United States Code, is amended to read as follows:*

13 “**§ 1544. Misuse of a passport**

14 “Any person who knowingly—

15 “(1) *misuses or attempts to misuse for their own*
16 *purposes any passport issued or designed for the use*
17 *of another;*

18 “(2) *uses or attempts to use any passport in vio-*
19 *lation of the laws, regulations, or rules governing the*
20 *issuance and use of the passport;*

21 “(3) *secures, possesses, uses, receives, buys, sells,*
22 *or distributes or attempts to secure, possess, use, re-*
23 *ceive, buy, sell, or distribute any passport knowing*
24 *the passport to be forged, counterfeited, altered, falsely*

1 *made, procured by fraud, or produced or issued with-*
2 *out lawful authority; or*

3 “(4) *substantially violates the terms and condi-*
4 *tions of any safe conduct duly obtained and issued*
5 *under the authority of the United States,*
6 *shall be fined under this title, imprisoned not more than*
7 *25 years (if the offense was committed to facilitate an act*
8 *of international terrorism (as defined in section 2331 of this*
9 *title)), 20 years (if the offense was committed to facilitate*
10 *a drug trafficking crime (as defined in section 929(a) of*
11 *this title)), 15 years (in the case of any other offense), or*
12 *both.”.*

13 (d) *SCHEMES TO PROVIDE FRAUDULENT IMMIGRA-*
14 *TION SERVICES.—Section 1545 of title 18, United States*
15 *Code, is amended to read as follows:*

16 “§1545. ***Schemes to provide fraudulent immigration***
17 ***services***

18 “(a) *IN GENERAL.—Any person who knowingly exe-*
19 *cutes a scheme or artifice, in connection with any matter*
20 *that is authorized by or arises under any Federal immigra-*
21 *tion law or any matter the offender claims or represents*
22 *is authorized by or arises under any Federal immigration*
23 *law, to—*

24 “(1) *defraud any person; or*

1 “(2) obtain or receive money or anything else of
2 value from any person by means of false or fraudu-
3 lent pretenses, representations, or promises,
4 shall be fined under this title, imprisoned not more than
5 10 years, or both.

6 “(b) *MISREPRESENTATION*.—Any person who know-
7 ingly and falsely represents that such person is an attorney
8 or an accredited representative (as that term is defined in
9 section 1292.1 of title 8, Code of Federal Regulations (or
10 any successor regulation)) in any matter arising under any
11 Federal immigration law shall be fined under this title, im-
12 prisoned not more than 15 years, or both.”.

13 (e) *IMMIGRATION AND VISA FRAUD*.—Section 1546 of
14 title 18, United States Code, is amended—

15 (1) by amending the section heading to read as
16 follows:

17 “**§ 1546. Immigration and visa fraud**”;

18 (2) by redesignating subsection (b) as subsection
19 (d); and

20 (3) by inserting after subsection (a) the following
21 new subsections:

22 “(b) *TRAFFICKING*.—Any person who, during any pe-
23 riod of 3 years or less, knowingly—

24 “(1) and without lawful authority produces,
25 issues, or transfers 3 or more immigration documents;

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1 “(2) forges, counterfeits, alters, or falsely makes
2 3 or more immigration documents;

3 “(3) secures, possesses, uses, buys, sells, or dis-
4 tributes 3 or more immigration documents, knowing
5 the immigration documents to be forged, counterfeited,
6 altered, stolen, falsely made, procured by fraud, or
7 produced or issued without lawful authority; or

8 “(4) completes, mails, prepares, presents, signs,
9 or submits 3 or more immigration documents know-
10 ing the documents to contain any materially false
11 statement or representation,

12 shall be fined under this title, imprisoned not more than
13 20 years, or both.

14 “(c) *IMMIGRATION DOCUMENT MATERIALS.*—Any per-
15 son who knowingly and without lawful authority produces,
16 buys, sells, possesses, or uses any official material (or coun-
17 terfeit of any official material) used to make 10 or more
18 immigration documents, including any distinctive paper,
19 seal, hologram, image, text, symbol, stamp, engraving, or
20 plate, shall be fined under this title, imprisoned not more
21 than 20 years, or both.”.

22 (f) *ALTERNATIVE IMPRISONMENT MAXIMUM FOR CER-*
23 *TAIN OFFENSES.*—Section 1547 of title 18, United States
24 Code, is amended—

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1 (1) *in the matter preceding paragraph (1), by*
2 *striking “(other than an offense under section 1545)”;*

3 (2) *in paragraph (1), by striking “15” and in-*
4 *serting “20”; and*

5 (3) *in paragraph (2), by striking “20” and in-*
6 *serting “25”.*

7 (g) *AUTHORIZED LAW ENFORCEMENT ACTIVITIES.—*
8 *Chapter 75 of title 18, United States Code, is amended by*
9 *adding after section 1547 the following:*

10 **“§ 1548. Authorized law enforcement activities**

11 *“Nothing in this chapter may be construed to pro-*
12 *hibit—*

13 *“(1) any lawfully authorized investigative, pro-*
14 *ductive, or intelligence activity of a law enforcement*
15 *agency of the United States, a State, or a political*
16 *subdivision of a State, or an intelligence agency of the*
17 *United States; or*

18 *“(2) any activity authorized under title V of the*
19 *Organized Crime Control Act of 1970 (Public Law*
20 *91–452; 84 Stat. 933).”.*

21 (h) *TABLE OF SECTIONS AMENDMENT.—The table of*
22 *sections for chapter 75 of title 18, United States Code, is*
23 *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.”.

1 **SEC. 3708. COMBATING SCHEMES TO DEFRAUD ALIENS.**

2 (a) *REGULATIONS, FORMS, AND PROCEDURES.*—The
3 Secretary and the Attorney General, for matters within
4 their respective jurisdictions arising under the immigration
5 laws, shall promulgate appropriate regulations, forms, and
6 procedures defining the circumstances in which—

7 (1) persons submitting applications, petitions,
8 motions, or other written materials relating to immi-
9 gration benefits or relief from removal under the im-
10 migration laws will be required to identify who (other
11 than immediate family members) assisted them in
12 preparing or translating the immigration submis-
13 sions; and

14 (2) any person or persons who received com-
15 pensation (other than a nominal fee for copying,
16 mailing, or similar services) in connection with the
17 preparation, completion, or submission of such mate-
18 rials will be required to sign the form as a preparer
19 and provide identifying information.

20 (b) *CIVIL INJUNCTIONS AGAINST IMMIGRATION SERV-*
21 *ICE PROVIDER.*—The Attorney General may commence a
22 civil action in the name of the United States to enjoin any
23 immigration service provider from further engaging in any

1 *fraudulent conduct that substantially interferes with the*
2 *proper administration of the immigration laws or who will-*
3 *fully misrepresents such provider’s legal authority to pro-*
4 *vide representation before the Department of Justice or the*
5 *Department.*

6 (c) *DEFINITIONS.—In this section:*

7 (1) *IMMIGRATION LAWS.—The term “immigra-*
8 *tion laws” has the meaning given that term in section*
9 *101(a)(17) of the Immigration and Nationality Act*
10 *(8 U.S.C. 1101(a)(17)).*

11 (2) *IMMIGRATION SERVICE PROVIDER.—The term*
12 *“immigration service provider” means any indi-*
13 *vidual or entity (other than an attorney or individual*
14 *otherwise authorized to provide representation in im-*
15 *migration proceedings as provided in Federal regula-*
16 *tion) who, for a fee or other compensation, provides*
17 *any assistance or representation to aliens in relation*
18 *to any filing or proceeding relating to the alien which*
19 *arises, or which the provider claims to arise, under*
20 *the immigration laws, executive order, or presidential*
21 *proclamation.*

22 **SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT**
23 **AND IMMIGRATION FRAUD OFFENSES.**

24 (a) *INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8*
25 *U.S.C. 1182(a)(2)(A)(i)) is amended—*

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1 (1) *in subclause (I), by striking “, or” at the end*
2 *and inserting a semicolon;*

3 (2) *in subclause (II), by striking the comma at*
4 *the end and inserting “; or”; and*

5 (3) *by inserting after subclause (II) the fol-*
6 *lowing:*

7 *“(III) a violation of section 1541,*
8 *1545, and subsection (b) of section*
9 *1546 of title 18, United States Code,”.*

10 (b) *REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C.*
11 *1227(a)(3)(B)(iii)) is amended to read as follows:*

12 *“(iii) of a violation of section 1541,*
13 *1545, and subsection (b) of section 1546 of*
14 *title 18, United States Code,”.*

15 (c) *EFFECTIVE DATE.—The amendments made by sub-*
16 *sections (a) and (b) shall apply to proceedings pending on*
17 *or after the date of the enactment of this Act, with respect*
18 *to conduct occurring on or after that date.*

19 **SEC. 3710. DIRECTIVES RELATED TO PASSPORT AND DOCU-**
20 **MENT FRAUD.**

21 (a) *DIRECTIVE TO THE UNITED STATES SENTENCING*
22 *COMMISSION.—*

23 (1) *IN GENERAL.—Pursuant to the authority*
24 *under section 994 of title 28, United States Code, the*
25 *United States Sentencing Commission shall promul-*

1 *gate or amend the sentencing guidelines, policy state-*
2 *ments, and official commentaries, if appropriate, re-*
3 *lated to passport fraud offenses, including the offenses*
4 *described in chapter 75 of title 18, United States*
5 *Code, as amended by section 3707, to reflect the seri-*
6 *ous nature of such offenses.*

7 (2) *REPORT.—Not later than 1 year after the*
8 *date of the enactment of this Act, the United States*
9 *Sentencing Commission shall submit a report on the*
10 *implementation of this subsection to—*

11 (A) *the Committee on the Judiciary of the*
12 *Senate; and*

13 (B) *the Committee on the Judiciary of the*
14 *House of Representatives.*

15 (b) *PROTECTION FOR LEGITIMATE REFUGEES AND*
16 *ASYLUM SEEKERS.—*

17 (1) *IN GENERAL.—*

18 (A) *REQUIREMENT FOR GUIDELINES.—The*
19 *Attorney General, in consultation with the Sec-*
20 *retary, shall develop binding prosecution guide-*
21 *lines for Federal prosecutors to ensure that each*
22 *prosecution of an alien seeking entry into the*
23 *United States by fraud is consistent with the*
24 *United States treaty obligations under Article*
25 *31(1) of the Convention Relating to the Status of*

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1 *Refugees, done at Geneva July 28, 1951 (as*
2 *made applicable by the Protocol Relating to the*
3 *Status of Refugees, done at New York January*
4 *31, 1967 (19 UST 6223)).*

5 *(B) NO PRIVATE RIGHT OF ACTION.—The*
6 *guidelines developed pursuant to subparagraph*
7 *(A), and any internal office procedures related to*
8 *such guidelines—*

9 *(i) are intended solely for the guidance*
10 *of attorneys of the United States; and*

11 *(ii) are not intended to, do not, and*
12 *may not be relied upon to, create any right*
13 *or benefit, substantive or procedural, en-*
14 *forceable at law by any party in any ad-*
15 *ministrative, civil, or criminal matter.*

16 *(2) PROTECTION OF VULNERABLE PERSONS.—A*
17 *person described in paragraph (3) may not be pros-*
18 *ecuted under chapter 75 of title 18, United States*
19 *Code, or under section 275 or 276 of the Immigration*
20 *and Nationality Act (8 U.S.C. 1325 and 1326), in*
21 *connection with the person's entry or attempted entry*
22 *into the United States until after the date on which*
23 *the person's application for such protection, classi-*
24 *fication, or status has been adjudicated and denied in*

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1 *accordance with the Immigration and Nationality*
2 *Act (8 U.S.C. 1101 et seq.).*

3 (3) *PERSONS SEEKING PROTECTION, CLASSIFICA-*
4 *TION, OR STATUS.—A person described in this para-*
5 *graph is a person who—*

6 (A) *is seeking protection, classification, or*
7 *status; and*

8 (B)(i) *has filed an application for asylum*
9 *under section 208 of the Immigration and Na-*
10 *tionality Act (8 U.S.C. 1158), withholding of re-*
11 *moval under section 241(b)(3) of such Act (8*
12 *U.S.C. 1231(b)(3)), or relief under the Conven-*
13 *tion against Torture and Other Cruel, Inhuman*
14 *or Degrading Treatment or Punishment, done at*
15 *New York, December 10, 1994, pursuant to title*
16 *8, Code of Federal Regulations;*

17 (ii) *indicates immediately after apprehen-*
18 *sion, that he or she intends to apply for such*
19 *asylum, withholding of removal, or relief and*
20 *promptly files the appropriate application;*

21 (iii) *has been referred for a credible fear*
22 *interview, a reasonable fear interview, or an asy-*
23 *lum-only hearing under section 235 of the Immi-*
24 *gration and Nationality Act (8 U.S.C. 1225) or*

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1 *part 208 of title 8, Code of Federal Regulations;*

2 *or*

3 *(iv) has filed an application for classifica-*

4 *tion or status under—*

5 *(I) subparagraph (T) or (U) of para-*

6 *graph (15), paragraph (27)(J), or para-*

7 *graph (51) of section 101(a) of the Immi-*

8 *gration and Nationality Act (8 U.S.C.*

9 *1101(a)); or*

10 *(II) section 216(c)(4)(C) or 240A(b)(2)*

11 *of such Act (8 U.S.C. 1186a(c)(4)(C) and*

12 *1229b(b)(2)).*

13 **SEC. 3711. INADMISSIBLE ALIENS.**

14 *(a) DETERRING ALIENS ORDERED REMOVED FROM*

15 *REMAINING IN THE UNITED STATES UNLAWFULLY.—Sec-*

16 *tion 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—*

17 *(1) in clause (i), by striking “seeks admission*

18 *within 5 years of the date of such removal (or within*

19 *20 years” and inserting “seeks admission not later*

20 *than 5 years after the date of the alien’s removal (or*

21 *not later than 20 years after the alien’s removal”;*

22 *and*

23 *(2) in clause (ii), by striking “seeks admission*

24 *within 10 years of the date of such alien’s departure*

25 *or removal (or within 20 years of” and inserting*

1 *“seeks admission not later than 10 years after the*
2 *date of the alien’s departure or removal (or not later*
3 *than 20 years after”.*

4 ***(b) BIOMETRIC SCREENING.—Section 212 (8 U.S.C.***
5 ***1182) is amended—***

6 ***(1) in subsection (a)(7), by adding at the end the***
7 ***following:***

8 ***“(C) WITHHOLDING INFORMATION.—Except***
9 ***as provided in subsection (d)(2), any alien who***
10 ***willfully, through his or her own fault, refuses to***
11 ***comply with a lawful request for biometric infor-***
12 ***mation is inadmissible.”; and***

13 ***(2) in subsection (d), by inserting after para-***
14 ***graph (1) the following:***

15 ***“(2) The Secretary may waive the application of***
16 ***subsection (a)(7)(C) for an individual alien or a class***
17 ***of aliens.”.***

18 ***(c) PRECLUDING ADMISSIBILITY OF ALIENS CON-***
19 ***VICTED OF SERIOUS CRIMINAL OFFENSES AND DOMESTIC***
20 ***VIOLENCE, STALKING, CHILD ABUSE, AND VIOLATION OF***
21 ***PROTECTION ORDERS.—***

22 ***(1) INADMISSIBILITY ON CRIMINAL AND RELATED***
23 ***GROUND; WAIVERS.—Section 212 (8 U.S.C. 1182), as***
24 ***amended by this Act, is further amended—***

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1 (A) in subsection (a)(2), as amended by sec-
2 tions 3401 and 3402, is further amended by in-
3 serting after subparagraph (J) the following:

4 “(K) *CRIMES OF DOMESTIC VIOLENCE,*
5 *STALKING, OR VIOLATION OF PROTECTIVE OR-*
6 *DERS; CRIMES AGAINST CHILDREN.—*

7 “(i) *DOMESTIC VIOLENCE, STALKING,*
8 *AND CHILD ABUSE.—*

9 “(I) *IN GENERAL.—Any alien who*
10 *has been convicted of a crime of domes-*
11 *tic violence, a crime of stalking, or a*
12 *crime of child abuse, child neglect, or*
13 *child abandonment, provided the alien*
14 *served at least 1 year imprisonment for*
15 *the crime, or provided the alien was*
16 *convicted of offenses constituting more*
17 *than 1 such crime, not arising out of*
18 *a single scheme of criminal mis-*
19 *conduct, is inadmissible.*

20 “(II) *CRIME OF DOMESTIC VIO-*
21 *LENCE DEFINED.—In this clause, the*
22 *term ‘crime of domestic violence’ means*
23 *any crime of violence (as defined in*
24 *section 16 of title 18, United States*
25 *Code) against a person committed by a*

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1 *current or former spouse of the person,*
2 *by an individual with whom the per-*
3 *son shares a child in common, by an*
4 *individual who is cohabiting with or*
5 *has cohabited with the person as a*
6 *spouse, by an individual similarly sit-*
7 *uated to a spouse of the person under*
8 *the domestic or family violence laws of*
9 *the jurisdiction where the offense oc-*
10 *curs, or by any other individual*
11 *against a person who is protected from*
12 *that individual's acts under the domes-*
13 *tic or family violence laws of the*
14 *United States or any State, Indian*
15 *tribal government, or unit of local or*
16 *foreign government.*

17 *“(i) VIOLATORS OF PROTECTION OR-*
18 *DEES.—*

19 *“(I) IN GENERAL.—Any alien who*
20 *at any time is enjoined under a protec-*
21 *tion order issued by a court and whom*
22 *the court determines has engaged in*
23 *conduct that constitutes criminal con-*
24 *tempt of the portion of a protection*
25 *order that involves protection against*

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1 *credible threats of violence, repeated*
2 *harassment, or bodily injury to the*
3 *person or persons for whom the protec-*
4 *tion order was issued, is inadmissible.*

5 “(II) *PROTECTION ORDER DE-*
6 *FINED.—In this clause, the term ‘pro-*
7 *tection order’ means any injunction*
8 *issued for the purpose of preventing*
9 *violent or threatening acts of domestic*
10 *violence, including temporary or final*
11 *orders issued by civil or criminal*
12 *courts (other than support or child cus-*
13 *tody orders or provisions) whether ob-*
14 *tained by filing an independent action*
15 *or as an independent order in another*
16 *proceeding.*

17 “(iii) *APPLICABILITY.—This subpara-*
18 *graph shall not apply to an alien who has*
19 *been battered or subjected to extreme cruelty*
20 *and who is not and was not the primary*
21 *perpetrator of violence in the relationship,*
22 *upon a determination by the Attorney Gen-*
23 *eral or the Secretary of Homeland Security*
24 *that—*

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1 “(I) the alien was acting in self-
2 defense;

3 “(II) the alien was found to have
4 violated a protection order intended to
5 protect the alien; or

6 “(III) the alien committed, was
7 arrested for, was convicted of, or pled
8 guilty to committing a crime that did
9 not result in serious bodily injury.”;
10 and

11 (B) in subsection (h)—

12 (i) by striking “The Attorney General
13 may, in his discretion, waive the applica-
14 tion of subparagraphs (A)(i)(I), (B), (D),
15 and (E) of subsection (a)(2)” and inserting
16 “The Attorney General or the Secretary of
17 Homeland Security may waive the applica-
18 tion of subparagraphs (A)(i)(I), (B), (D),
19 and (E) of subsection (a)(2)”; and

20 (ii) by inserting “or the Secretary of
21 Homeland Security” after “the Attorney
22 General” each place that term appears.

23 (2) *EFFECTIVE DATE.*—The amendments made
24 by this subsection shall apply to any acts that oc-

1 *curred on or after the date of the enactment of this*
2 *Act.*

3 **SEC. 3712. ORGANIZED AND ABUSIVE HUMAN SMUGGLING**
4 **ACTIVITIES.**

5 *(a) ENHANCED PENALTIES.—*

6 *(1) IN GENERAL.—Title II (8 U.S.C. 1151 et*
7 *seq.) is amended by adding at the end the following:*

8 **“SEC. 295. ORGANIZED HUMAN SMUGGLING.**

9 **“(a) PROHIBITED ACTIVITIES.—Whoever, while acting**
10 *for profit or other financial gain, knowingly directs or par-*
11 *ticipates in an effort or scheme to assist or cause 5 or more*
12 *persons (other than a parent, spouse, or child of the of-*
13 *fender)—*

14 *“(1) to enter, attempt to enter, or prepare to*
15 *enter the United States—*

16 *“(A) by fraud, falsehood, or other corrupt*
17 *means;*

18 *“(B) at any place other than a port or*
19 *place of entry designated by the Secretary; or*

20 *“(C) in a manner not prescribed by the im-*
21 *migration laws and regulations of the United*
22 *States; or*

23 *“(2) to travel by air, land, or sea toward the*
24 *United States (whether directly or indirectly)—*

1 “(A) *knowing that the persons seek to enter*
2 *or attempt to enter the United States without*
3 *lawful authority; and*

4 “(B) *with the intent to aid or further such*
5 *entry or attempted entry; or*

6 “(3) *to be transported or moved outside of the*
7 *United States—*

8 “(A) *knowing that such persons are aliens*
9 *in unlawful transit from 1 country to another or*
10 *on the high seas; and*

11 “(B) *under circumstances in which the per-*
12 *sons are in fact seeking to enter the United*
13 *States without official permission or legal au-*
14 *thority;*

15 *shall be punished as provided in subsection (c) or (d).*

16 “(b) *CONSPIRACY AND ATTEMPT.—Any person who at-*
17 *tempts or conspires to violate subsection (a) of this section*
18 *shall be punished in the same manner as a person who com-*
19 *pletes a violation of such subsection.*

20 “(c) *BASE PENALTY.—Except as provided in sub-*
21 *section (d), any person who violates subsection (a) or (b)*
22 *shall be fined under title 18, imprisoned for not more than*
23 *20 years, or both.*

24 “(d) *ENHANCED PENALTIES.—Any person who vio-*
25 *lates subsection (a) or (b) shall—*

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1 “(1) in the case of a violation during and in re-
2 lation to which a serious bodily injury (as defined in
3 section 1365 of title 18) occurs to any person, be fined
4 under title 18, imprisoned for not more than 30
5 years, or both;

6 “(2) in the case of a violation during and in re-
7 lation to which the life of any person is placed in
8 jeopardy, be fined under title 18, imprisoned for not
9 more than 30 years, or both;

10 “(3) in the case of a violation involving 10 or
11 more persons, be fined under title 18, imprisoned for
12 not more than 30 years, or both;

13 “(4) in the case of a violation involving the brib-
14 ery or corruption of a U.S. or foreign government of-
15 ficial, be fined under title 18, imprisoned for not
16 more than 30 years, or both;

17 “(5) in the case of a violation involving robbery
18 or extortion (as those terms are defined in paragraph
19 (1) or (2), respectively, of section 1951(b)) be fined
20 under title 18, imprisoned for not more than 30
21 years, or both;

22 “(6) in the case of a violation during and in re-
23 lation to which any person is subjected to an involun-
24 tary sexual act (as defined in section 2246(2) of title

1 18), be fined under title 18, imprisoned for not more
2 than 30 years, or both; or

3 “(7) in the case of a violation resulting in the
4 death of any person, be fined under title 18, impris-
5 oned for any term of years or for life, or both.

6 “(e) *LAWFUL AUTHORITY DEFINED.*—

7 “(1) *IN GENERAL.*—In this section, the term
8 ‘lawful authority’—

9 “(A) means permission, authorization, or li-
10 cense that is expressly provided for in the immi-
11 gration laws of the United States or accom-
12 panying regulations; and

13 “(B) does not include any such authority
14 secured by fraud or otherwise obtained in viola-
15 tion of law, nor does it include authority sought,
16 but not approved.

17 “(2) *APPLICATION TO TRAVEL OR ENTRY.*—No
18 alien shall be deemed to have lawful authority to
19 travel to or enter the United States if such travel or
20 entry was, is, or would be in violation of law.

21 “(f) *EFFORT OR SCHEME.*—For purposes of this sec-
22 tion, ‘effort or scheme to assist or cause 5 or more persons’
23 does not require that the 5 or more persons enter, attempt
24 to enter, prepare to enter, or travel at the same time so
25 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 activities*
5 *of any Federal, State, or tribal law enforcement agency*
6 *with the intent to further a Federal crime relating to*
7 *United States immigration, customs, controlled substances,*
8 *agriculture, monetary instruments, or other border controls*
9 *shall be fined under title 18, imprisoned not more than 10*
10 *years, or both.*

11 “(b) *DESTRUCTION OF UNITED STATES BORDER CON-*
12 *TROLS.—Whoever knowingly and without lawful authoriza-*
13 *tion destroys, alters, or damages any fence, barrier, sensor,*
14 *camera, or other physical or electronic device deployed by*
15 *the Federal Government to control the border or a port of*
16 *entry or otherwise seeks to construct, excavate, or make any*
17 *structure intended to defeat, circumvent or evade any such*
18 *fence, barrier, sensor camera, or other physical or electronic*
19 *device deployed by the Federal government to control the*
20 *border or a port of entry shall be fined under title 18, im-*
21 *prisoned not more than 10 years, or both, and if, at the*
22 *time of the offense, the person uses or carries a firearm or*
23 *who, in furtherance of any such crime, possesses a firearm,*
24 *that person shall be fined under title 18, imprisoned not*
25 *more than 20 years, or both.*

1 “(c) *CONSPIRACY AND ATTEMPT.*—Any person who at-
2 *tempts or conspires to violate subsection (a) or (b) of this*
3 *section shall be punished in the same manner as a person*
4 *who completes a violation of such subsection.”.*

5 (2) *TABLE OF CONTENTS AMENDMENT.*—The
6 *table of contents is amended by adding after the item*
7 *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, is
11 *amended—*

12 (1) *in paragraph (1)—*

13 (A) *in subparagraph (A), by inserting “,*
14 *alien smuggling crime,” after “crime of violence”*
15 *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)) is
13 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 the
23 special maritime and territorial jurisdiction of
24 the United States (as defined in section 7(9) of
25 title 18, *United States Code*);”.

1 **SEC. 3715. SECURE ALTERNATIVES PROGRAMS.**

2 (a) *IN GENERAL.*—*The Secretary shall establish secure*
3 *alternatives programs that incorporate case management*
4 *services in each field office of the Department to ensure ap-*
5 *pearances at immigration proceedings and public safety.*

6 (b) *CONTRACT AUTHORITY.*—*The Secretary shall con-*
7 *tract with nongovernmental community-based organiza-*
8 *tions to conduct screening of detainees, provide appearance*
9 *assistance services, and operate community-based super-*
10 *vision programs. Secure alternatives shall offer a con-*
11 *tinuum of supervision mechanisms and options, including*
12 *community support, depending on an assessment of each*
13 *individual's circumstances. The Secretary may contract*
14 *with nongovernmental organizations to implement secure*
15 *alternatives that maintain custody over the alien.*

16 (c) *INDIVIDUALIZED DETERMINATIONS.*—*In deter-*
17 *mining whether to use secure alternatives, the Secretary*
18 *shall make an individualized determination, and for each*
19 *individual placed on secure alternatives, shall review the*
20 *level of supervision on a monthly basis. Secure alternatives*
21 *shall not be used when release on bond or recognizance is*
22 *determined to be a sufficient measure to ensure appearances*
23 *at immigration proceedings and public safety.*

24 (d) *CUSTODY.*—*The Secretary may use secure alter-*
25 *natives programs to maintain custody over any alien de-*
26 *tained under the Immigration and Nationality Act, except*

1 *for aliens detained under section 236A of such Act (8 U.S.C.*
2 *1226a). If an individual is not eligible for release from cus-*
3 *tody or detention, the Secretary shall consider the alien for*
4 *placement in secure alternatives that maintain custody over*
5 *the alien, including the use of electronic ankle devices.*

6 **SEC. 3716. OVERSIGHT OF DETENTION FACILITIES.**

7 (a) *DEFINITIONS.—In this section:*

8 (1) *APPLICABLE STANDARDS.—The term “appli-*
9 *cable standards” means the most recent version of de-*
10 *tention standards and detention-related policies*
11 *issued by the Secretary or the Director of U.S. Immigra-*
12 *tion and Customs Enforcement.*

13 (2) *DETENTION FACILITY.—The term “detention*
14 *facility” means a Federal, State, or local government*
15 *facility, or a privately owned and operated facility,*
16 *that is used, in whole or in part, to hold individuals*
17 *under the authority of the Director of U.S. Immigra-*
18 *tion and Customs Enforcement, including facilities*
19 *that hold such individuals under a contract or agree-*
20 *ment with the Director.*

21 (b) *DETENTION REQUIREMENTS.—The Secretary shall*
22 *ensure that all persons detained pursuant to the Immigra-*
23 *tion and Nationality Act (8 U.S.C. 1101 et seq.) are treated*
24 *humanely and benefit from the protections set forth in this*
25 *section.*

1 (c) *OVERSIGHT REQUIREMENTS.*—

2 (1) *ANNUAL INSPECTION.*—*All detention facili-*
3 *ties shall be inspected by the Secretary on a regular*
4 *basis, but not less than annually, for compliance with*
5 *applicable detention standards issued by the Sec-*
6 *retary and other applicable regulations.*

7 (2) *ROUTINE OVERSIGHT.*—*In addition to an-*
8 *ual inspections, the Secretary shall conduct routine*
9 *oversight of detention facilities, including unan-*
10 *nounced inspections.*

11 (3) *AVAILABILITY OF RECORDS.*—*All detention*
12 *facility contracts, memoranda of agreement, and eval-*
13 *uations and reviews shall be considered records for*
14 *purposes of section 552(f)(2) of title 5, United States*
15 *Code.*

16 (4) *CONSULTATION.*—*The Secretary shall seek*
17 *input from nongovernmental organizations regarding*
18 *their independent opinion of specific facilities.*

19 (d) *COMPLIANCE MECHANISMS.*—

20 (1) *AGREEMENTS.*—

21 (A) *NEW AGREEMENTS.*—*Compliance with*
22 *applicable standards of the Secretary and all ap-*
23 *plicable regulations, and meaningful financial*
24 *penalties for failure to comply, shall be a mate-*
25 *rial term in any new contract, memorandum of*

1 *agreement, or any renegotiation, modification, or*
2 *renewal of an existing contract or agreement, in-*
3 *cluding fee negotiations, executed with detention*
4 *facilities.*

5 (B) *EXISTING AGREEMENTS.*—*Not later*
6 *than 180 days after the date of the enactment of*
7 *this Act, the Secretary shall secure a modifica-*
8 *tion incorporating these terms for any existing*
9 *contracts or agreements that will not be renegoti-*
10 *ated, renewed, or otherwise modified.*

11 (C) *CANCELLATION OF AGREEMENTS.*—*Un-*
12 *less the Secretary provides a reasonable extension*
13 *to a specific detention facility that is negotiating*
14 *in good faith, contracts or agreements with de-*
15 *tection facilities that are not modified within 1*
16 *year of the date of the enactment of this Act will*
17 *be cancelled.*

18 (D) *PROVISION OF INFORMATION.*—*In mak-*
19 *ing modifications under this paragraph, the Sec-*
20 *retary shall require that detention facilities pro-*
21 *vide to the Secretary all contracts, memoranda of*
22 *agreement, evaluations, and reviews regarding*
23 *the facility on a regular basis. The Secretary*
24 *shall make these materials publicly available.*

25 (2) *FINANCIAL PENALTIES.*—

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1 (A) *REQUIREMENT TO IMPOSE.*—Subject to
2 subparagraph (C), the Secretary shall impose
3 meaningful financial penalties upon facilities
4 that fail to comply with applicable detention
5 standards issued by the Secretary and other ap-
6 plicable regulations.

7 (B) *TIMING OF IMPOSITION.*—Financial
8 penalties imposed under subparagraph (A) shall
9 be imposed immediately after a facility fails to
10 achieve an adequate or the equivalent median
11 score in any performance evaluation.

12 (C) *WAIVER.*—The requirements of subpara-
13 graph (A) may be waived if the facility corrects
14 the noted deficiencies and receives an adequate
15 score in not more than 90 days.

16 (D) *MULTIPLE OFFENDERS.*—In cases of
17 persistent and substantial noncompliance, in-
18 cluding scoring less than adequate or the equiva-
19 lent median score in 2 consecutive inspections,
20 the Secretary shall terminate contracts or agree-
21 ments with such facilities within 60 days, or in
22 the case of facilities operated by the Secretary,
23 such facilities shall be closed within 90 days.

24 (e) *REPORTING REQUIREMENTS.*—

1 (1) *OBJECTIVES.*—Not later than June 30 of
2 each year, the Secretary shall prepare and submit to
3 the Committee on the Judiciary of the Senate and the
4 Committee on the Judiciary of the House of Rep-
5 resentatives a report on inspection and oversight ac-
6 tivities of detention facilities.

7 (2) *CONTENTS.*—Each report submitted under
8 paragraph (1) shall include—

9 (A) a description of each detention facility
10 found to be in noncompliance with applicable
11 detention standards issued by the Department
12 and other applicable regulations;

13 (B) a description of the actions taken by the
14 Department to remedy any findings of non-
15 compliance or other identified problems, includ-
16 ing financial penalties, contract or agreement
17 termination, or facility closure; and

18 (C) information regarding whether the ac-
19 tions described in subparagraph (B) resulted in
20 compliance with applicable detention standards
21 and regulations.

22 **SEC. 3717. PROCEDURES FOR BOND HEARINGS AND FILING**
23 **OF NOTICES TO APPEAR.**

24 (a) *ALIENS IN CUSTODY.*—Section 236 (8 U.S.C.
25 1226) is amended by adding at the end the following:

1 “(f) *PROCEDURES FOR CUSTODY HEARINGS.*—*For*
2 *any alien taken into custody under any provision of this*
3 *Act, with the exception of minors being transferred to or*
4 *in the custody of the Office of Refugee Resettlement, the fol-*
5 *lowing shall apply:*

6 “(1) *The Secretary of Homeland Security shall,*
7 *without unnecessary delay and not later than 72*
8 *hours after the alien is taken into custody, file the No-*
9 *tice to Appear or other relevant charging document*
10 *with the immigration court having jurisdiction over*
11 *the location where the alien was apprehended, and*
12 *serve such notice on the alien.*

13 “(2) *The Secretary shall immediately determine*
14 *whether the alien shall remain in custody or be re-*
15 *leased and, without unnecessary delay and not later*
16 *than 72 hours after the alien was taken into custody,*
17 *serve upon the alien the custody decision specifying*
18 *the reasons for continued custody and the amount of*
19 *bond if any.*

20 “(3) *The Attorney General shall ensure the alien*
21 *has the opportunity to appear before an immigration*
22 *judge for a custody determination hearing promptly*
23 *after service of the Secretary’s custody decision. The*
24 *immigration judge may, on the Secretary’s motion*
25 *and upon a showing of good cause, postpone a cus-*

1 *tody redetermination hearing for no more than 72*
2 *hours after service of the custody decision, except that*
3 *in no case shall the hearing occur more than 6 days*
4 *(including weekends and holidays) after the alien was*
5 *taken into custody.*

6 *“(4) The immigration judge shall advise the*
7 *alien of the right to postpone the custody determina-*
8 *tion hearing and shall, on the oral or written request*
9 *of the individual, postpone the custody determination*
10 *hearing for a period of not more than 14 days.*

11 *“(5) Except for aliens that the immigration*
12 *judge has determined are deportable under section*
13 *236(c) or certified under section 236A, the immigra-*
14 *tion judge shall review the custody determination de*
15 *novo and may continue to detain the alien only if the*
16 *Secretary demonstrates that no conditions, including*
17 *the use of alternatives to detention that maintain cus-*
18 *tody over the alien, will reasonably assure the appear-*
19 *ance of the alien as required and the safety of any*
20 *other person and the community. For aliens whom*
21 *the immigration judge has determined are deportable*
22 *under section 236(c), the immigration judge may re-*
23 *view the custody determination if the Secretary agrees*
24 *the alien is not a danger to the community, and al-*
25 *ternatives to detention exist that ensure the appear-*

1 *ance of the alien, as required, and the safety of any*
2 *other person and the community.*

3 *“(6) In the case of any alien remaining in cus-*
4 *tody after a custody determination, the Attorney Gen-*
5 *eral shall provide de novo custody determination*
6 *hearings before an immigration judge every 90 days*
7 *so long as the alien remains in custody. An alien*
8 *may also obtain a de novo custody redetermination*
9 *hearing at any time upon a showing of good cause.*

10 *“(7) The Secretary shall inform the alien of his*
11 *or her rights under this paragraph at the time the*
12 *alien is first taken into custody.”.*

13 *(b) LIMITATIONS ON SOLITARY CONFINEMENT.—*

14 *(1) IN GENERAL.—Section 236(d) (8 U.S.C.*
15 *1226(d)) is amended by adding at the end the fol-*
16 *lowing:*

17 *“(3) NATURE OF DETENTION.—*

18 *“(A) DEFINITIONS.—In this paragraph:*

19 *“(i) ADMINISTRATIVE SEGREGATION.—*
20 *The term ‘administrative segregation’*
21 *means a nonpunitive form of solitary con-*
22 *finement for administrative reasons.*

23 *“(ii) DISCIPLINARY SEGREGATION.—*
24 *The term ‘disciplinary segregation’ means a*

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1 *punitive form of solitary confinement for*
2 *disciplinary reasons.*

3 “(iii) *SERIOUS MENTAL ILLNESS.*—*The*
4 *term ‘serious mental illness’ means a sub-*
5 *stantial disorder of thought or mood that*
6 *significantly impairs judgment, behavior,*
7 *capacity to recognize reality, or ability to*
8 *cope with the ordinary demands of life.*

9 “(iv) *SOLITARY CONFINEMENT.*—*The*
10 *term ‘solitary confinement’ means cell con-*
11 *finement of 22 hours or more per day.*

12 “(B) *LIMITATIONS ON SOLITARY CONFINEMENT.*—
13

14 “(i) *IN GENERAL.*—*The use of solitary*
15 *confinement of an alien in custody pursu-*
16 *ant to this section, section 235, or section*
17 *241 shall be limited to situations in which*
18 *such confinement—*

19 “(I) *is necessary—*

20 “(aa) *to control a threat to*
21 *detainees, staff, or the security of*
22 *the facility;*

23 “(bb) *to discipline the alien*
24 *for a serious disciplinary infrac-*
25 *tion if alternative sanctions would*

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1 *not adequately regulate the alien's*
2 *behavior; or*

3 *“(cc) for good order during*
4 *the last 24 hours before an alien*
5 *is released, removed, or trans-*
6 *ferred from the facility;*

7 *“(II) is limited to the briefest*
8 *term and under the least restrictive*
9 *conditions practicable and consistent*
10 *with the rationale for placement and*
11 *with the progress achieved by the alien;*
12 *and*

13 *“(III) complies with the require-*
14 *ments set forth in this subparagraph.*

15 *“(ii) CHILDREN.—Children who are*
16 *younger than 18 years of age may not be*
17 *placed in solitary confinement.*

18 *“(iii) SERIOUS MENTAL ILLNESS.—*

19 *“(I) IN GENERAL.—An alien with*
20 *a serious mental illness may not be*
21 *placed in involuntary solitary confine-*
22 *ment due to mental illness unless—*

23 *“(aa) such confinement is*
24 *necessary for the alien's own pro-*
25 *tection; or*

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1 “(bb) if the alien requires
2 emergency stabilization or poses a
3 significant threat to staff or others
4 in general population.

5 “(II) *MAXIMUM PERIOD.*—An
6 alien diagnosed with serious mental
7 illness may not be placed in solitary
8 confinement for more than 15 days un-
9 less the Secretary of Homeland Secu-
10 rity determines that—

11 “(aa) any less restrictive al-
12 ternative is more likely than not
13 to cause greater harm to the alien
14 than the solitary confinement pe-
15 riod imposed; or

16 “(bb) the likely harm to the
17 alien is not substantial and the
18 period of solitary confinement is
19 the least restrictive alternative
20 necessary to protect the alien,
21 other detainees, or others.

22 “(iv) *OWN PROTECTION.*—

23 “(I) *IN GENERAL.*—Involuntary
24 solitary confinement for an alien’s own
25 protection may be used only for the

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1 *least amount of time practicable and if*
2 *no readily available and less restrictive*
3 *alternative will maintain the alien's*
4 *safety.*

5 *“(II) MAXIMUM PERIOD.—An*
6 *alien may not be placed in involuntary*
7 *solitary confinement for the alien's*
8 *own protection for longer than 15 days*
9 *unless the Secretary of Homeland Se-*
10 *curity determines that any less restric-*
11 *tive alternative is more likely than not*
12 *to cause greater harm to the alien than*
13 *the solitary confinement period im-*
14 *posed.*

15 *“(III) PROHIBITED FACTORS.—*
16 *The Secretary of Homeland Security*
17 *may not rely solely on an alien's age,*
18 *physical disability, sexual orientation,*
19 *gender identity, race, or religion. The*
20 *Secretary shall make an individualized*
21 *assessment in each case.*

22 *“(v) MEDICAL CARE.—An alien placed*
23 *in solitary confinement—*

24 *“(I) shall be visited by a medical*
25 *professional at least 3 times each week;*

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1 “(II) shall receive at least weekly
2 mental health monitoring by a licensed
3 mental health clinician; and

4 “(III) shall be removed from soli-
5 tary confinement if—

6 “*(aa)* a mental health clini-
7 cian determines that such deten-
8 tion is having a significant nega-
9 tive impact on the alien’s mental
10 health; and

11 “*(bb)* an appropriate alter-
12 native is available.

13 “*(vi)* NOTIFICATION; ACCESS TO COUN-
14 SEL.—If an alien is placed in solitary con-
15 finement, the alien—

16 “(I) shall be informed verbally,
17 and in writing, of the reason for such
18 confinement and the intended duration
19 of such confinement, if specified at the
20 time of initial placement; and

21 “(II) shall be offered access to
22 counsel on the same basis as detainees
23 in the general population.

24 “*(vii)* LONGER SOLITARY CONFINE-
25 MENT PERIODS.—If an alien has been sub-

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1 *ject to involuntary solitary confinement for*
2 *more than 14 consecutive days, the Sec-*
3 *retary of Homeland Security shall conduct*
4 *a timely review to determine whether con-*
5 *tinued placement is justified by an extreme*
6 *disciplinary infraction or is the least re-*
7 *strictive means of protecting the alien or*
8 *others. Any alien held in solitary confine-*
9 *ment for more than 7 days shall be given a*
10 *reasonable opportunity to challenge such*
11 *placement with the detention facility ad-*
12 *ministrators, which will promptly respond to*
13 *such challenge in writing.*

14 “(viii) *OVERSIGHT.*—*The Secretary of*
15 *Homeland Security shall ensure that—*

16 “(I) *he or she is regularly in-*
17 *formed about the use of solitary con-*
18 *finement in all facilities at which*
19 *aliens are detained; and*

20 “(II) *the Department fully com-*
21 *plies with the provisions under this*
22 *paragraph.*

23 “(C) *DISCIPLINARY SEGREGATION.*—*Dis-*
24 *ciplinary segregation is authorized only pursu-*
25 *ant to the order of a facility disciplinary panel*

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1 following a hearing in which the detainee is de-
2 termined to have violated a facility rule.

3 “(D) ADMINISTRATIVE SEGREGATION.—Ad-
4 ministrative segregation is authorized only as
5 necessary to ensure the safety of the detainee or
6 others, the protection of property, or the security
7 or good order of the facility. Detainees in admin-
8 istrative segregation shall be offered program-
9 ming opportunities and privileges consistent
10 with those available in the general population,
11 except where precluded by safety or security con-
12 cerns.”.

13 (2) ANNUAL REPORT.—The Secretary shall—

14 (A) collect and compile information regard-
15 ing the prevalence, reasons for, and duration of
16 solitary confinement in all facilities described in
17 paragraph (3);

18 (B) submit an annual report containing the
19 information described in subparagraph (A) to
20 Congress not later than 30 days after the end of
21 the reporting period; and

22 (C) make the data contained in the report
23 submitted under subparagraph (B) publicly
24 available.

1 (3) *RULEMAKING.*—*The Secretary shall adopt*
2 *regulations or policies to carry out section 236(d)(3)*
3 *of the Immigration and Nationality Act, as amended*
4 *by paragraph (1), at all facilities at which aliens are*
5 *detained pursuant to section 235, 236, or 241 of such*
6 *Act.*

7 (c) *STIPULATED REMOVAL.*—*Section 240(d) (8 U.S.C.*
8 *1229a) is amended to read as follows:*

9 “(d) *STIPULATED REMOVAL.*—*The Attorney General*
10 *shall provide by regulation for the entry by an immigration*
11 *judge of an order of removal stipulated to by the alien (or*
12 *the alien’s representative) and the Service. An immigration*
13 *judge may enter a stipulated removal order only upon a*
14 *finding at an in-person hearing that the stipulation is vol-*
15 *untary, knowing, and intelligent. A stipulated order shall*
16 *constitute a conclusive determination of the alien’s remov-*
17 *ability from the United States.”.*

18 **SEC. 3718. SANCTIONS FOR COUNTRIES THAT DELAY OR**
19 **PREVENT REPATRIATION OF THEIR NATION-**
20 **ALS.**

21 *Section 243(d) (8 U.S.C. 1253(d)) is amended to read*
22 *as follows:*

23 “(d) *DISCONTINUING GRANTING VISAS TO NATIONALS*
24 *OF COUNTRIES THAT DENY OR DELAY ACCEPTING*
25 *ALIENS.*—*Notwithstanding section 221(c), if the Secretary*

1 *of Homeland Security determines, in consultation with the*
2 *Secretary of State, that the government of a foreign country*
3 *denies or unreasonably delays accepting aliens who are citi-*
4 *zens, subjects, nationals, or residents of that country after*
5 *the Secretary asks whether the government will accept an*
6 *alien under this section, or after a determination that the*
7 *alien is inadmissible under paragraph (6) or (7) of section*
8 *212(a), the Secretary of State shall order consular officers*
9 *in that foreign country to discontinue granting visas, or*
10 *classes of visas, until the Secretary of Homeland Security*
11 *notifies the Secretary of State that the country has accepted*
12 *the aliens.”.*

13 **SEC. 3719. GROSS VIOLATIONS OF HUMAN RIGHTS.**

14 *(a) INADMISSIBILITY OF CERTAIN ALIENS.—Section*
15 *212(a)(3)(E) (8 U.S.C. 1182(a)(3)(E)) is amended by strik-*
16 *ing clause (iii) and inserting the following:*

17 *“(iii) COMMISSION OF ACTS OF TOR-*
18 *TURE, EXTRAJUDICIAL KILLINGS, WAR*
19 *CRIMES, OR WIDESPREAD OR SYSTEMATIC*
20 *ATTACKS ON CIVILIANS.—Any alien who*
21 *planned, ordered, assisted, aided and abet-*
22 *ted, committed, or otherwise participated,*
23 *including through command responsibility,*
24 *in the commission of—*

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1 “(I) any act of torture (as defined
2 in section 2340 of title 18, United
3 States Code);

4 “(II) any extrajudicial killing (as
5 defined in section 3(a) of the Torture
6 Victim Protection Act of 1991 (28
7 U.S.C. 1350 note)) under color of law
8 of any foreign nation;

9 “(III) a war crime (as defined in
10 section 2441 of title 18, United States
11 Code); or

12 “(IV) any of the following acts as
13 a part of a widespread or systematic
14 attack directed against a civilian pop-
15 ulation, with knowledge of the attack:
16 murder, extermination, enslavement,
17 forcible transfer of population, arbi-
18 trary detention, rape, sexual slavery,
19 enforced prostitution, forced preg-
20 nancy, enforced sterilization, or any
21 other form of sexual violence of com-
22 parable gravity; persecution on polit-
23 ical racial, national, ethnic, cultural,
24 religious, or gender grounds; enforced
25 disappearance of persons; or other in-

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1 *humane acts of a similar character in-*
2 *tentionally causing great suffering or*
3 *serious bodily or mental injury,*
4 *is inadmissible.*

5 “(iv) *LIMITATION.*—*Clause (iii) shall*
6 *not apply to an alien if the Secretary of*
7 *Homeland Security or the Attorney General*
8 *determine that the actions giving rise to the*
9 *alien’s inadmissibility under such clause*
10 *were committed under duress. In deter-*
11 *mining whether the alien was subject to du-*
12 *ress, the Secretary may consider, among rel-*
13 *evant factors, the age of the alien at the*
14 *time such actions were committed.”.*

15 (b) *DENYING SAFE HAVEN TO FOREIGN HUMAN*
16 *RIGHTS VIOLATORS.*—*Section 2(a)(2) of the Torture Victim*
17 *Protection Act of 1991 (28 U.S.C. 1350 note) is amended—*

18 (1) *by inserting after “killing” the following: “,*
19 *a war crime (as defined in subsections (c) and (d) of*
20 *section 2441 of title 18, United States Code), a wide-*
21 *spread or systematic attack on civilians (as defined*
22 *in section 212(a)(3)(E)(iii)(IV) of the Immigration*
23 *and Nationality Act), or genocide (as defined in sec-*
24 *tion 1091(a) of such title 18)”;* and

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1 (2) *by striking “to the individual’s legal rep-*
2 *resentative” and inserting “to that individual or to*
3 *that individual’s legal representative”.*

4 (c) *NONAPPLICABILITY OF CONFIDENTIALITY RE-*
5 *QUIREMENT WITH RESPECT TO VISA RECORDS.—The*
6 *President may make public, without regard to the require-*
7 *ments under section 222(f) of the Immigration and Nation-*
8 *ality Act (8 U.S.C. 1202(f)), with respect to confidentiality*
9 *of records pertaining to the issuance or refusal of visas or*
10 *permits to enter the United States, the names of aliens*
11 *deemed inadmissible on the basis of section*
12 *212(a)(3)(E)(iii) of such Act, as amended by subsection (a).*

13 **SEC. 3720. REPORTING AND RECORD KEEPING REQUIRE-**
14 **MENTS RELATING TO THE DETENTION OF**
15 **ALIENS.**

16 (a) *IN GENERAL.—In order for Congress and the pub-*
17 *lic to assess the full costs of apprehending, detaining, proc-*
18 *essing, supervising, and removing aliens, and how the*
19 *money Congress appropriates for detention is allocated by*
20 *Federal agencies, the Assistant Secretary for Immigration*
21 *and Customs and Enforcement (referred to in this section*
22 *as the “Assistant Secretary”), the Director of the Executive*
23 *Office of Immigration Review, and the Commissioner re-*
24 *sponsible for U.S. Customs and Border Protection (referred*
25 *to in this section as the “Commissioner”) shall—*

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1 (1) *maintain the information required under*
2 *subsections (b), (c), and (d); and*

3 (2) *submit reports on that information to Con-*
4 *gress and make that information available to the pub-*
5 *lic in accordance with subsection (e).*

6 (b) *MAINTENANCE OF INFORMATION BY U.S. IMMIGRA-*
7 *TION AND CUSTOMS ENFORCEMENT.—The Assistant Sec-*
8 *retary shall record and maintain, in the database of U.S.*
9 *Immigration and Customs Enforcement relating to de-*
10 *tained aliens, the following information with respect to each*
11 *alien detained pursuant to the Immigration and Nation-*
12 *ality Act (8 U.S.C. 1101 et seq.):*

13 (1) *The provision of law that provides specific*
14 *authority for the alien's detention and the beginning*
15 *and end dates of the alien's detention pursuant to*
16 *that authority. If the alien's detention is authorized*
17 *by different provisions of law during different periods*
18 *of time, the Assistant Secretary shall record and*
19 *maintain the provision of law that provides authority*
20 *for the alien's detention during each such period.*

21 (2) *The place where the alien was apprehended*
22 *or where U.S. Immigration and Customs Enforcement*
23 *assumed custody of the alien.*

24 (3) *Each location where U.S. Immigration and*
25 *Customs Enforcement detains the alien until the alien*

1 *is released from custody or removed from the United*
2 *States, including any period of redetention.*

3 *(4) The gender and age of each detained alien in*
4 *the custody of U.S. Immigration and Customs En-*
5 *forcement.*

6 *(5) The number of days the alien is detained, in-*
7 *cluding the number of days spent in any given deten-*
8 *tion facility and the total amount of time spent in de-*
9 *tention.*

10 *(6) The immigration charges that are the basis*
11 *for the alien's removal proceedings.*

12 *(7) The status of the alien's removal proceedings*
13 *and each date on which those proceedings progress*
14 *from 1 stage of proceeding to another.*

15 *(8) The length of time the alien was detained fol-*
16 *lowing a final administrative order of removal and*
17 *the reasons for the continued detention.*

18 *(9) The initial custody determination or review*
19 *made by U.S. Immigration and Customs Enforce-*
20 *ment, including whether the alien received notice of a*
21 *custody determination or review and when the cus-*
22 *tody determination or review took place.*

23 *(10) The risk assessment results for the alien, in-*
24 *cluding if the alien is subject to mandatory custody*
25 *or detention.*

1 (11) *The reason for the alien's release from de-*
2 *tention and the conditions of release imposed on the*
3 *alien, if applicable.*

4 (c) *MAINTENANCE OF INFORMATION BY EXECUTIVE*
5 *OFFICE OF IMMIGRATION REVIEW.—The Director of the Ex-*
6 *ecutive Office of Immigration Review shall record and*
7 *maintain, in the database of the Executive Office of Immi-*
8 *gration Review relating to detained aliens in removal pro-*
9 *ceedings, the following information with respect to each*
10 *such alien:*

11 (1) *The immigration charges that are the basis*
12 *for the alien's removal proceedings, including any re-*
13 *vision of the immigration charges and the date of*
14 *each such revision.*

15 (2) *The gender and age of the alien.*

16 (3) *The status of the alien's removal proceedings*
17 *and each date on which those proceedings progress*
18 *from one stage of proceeding to another.*

19 (4) *The statutory basis for any bond hearing*
20 *conducted and the outcomes of the bond hearing.*

21 (5) *Whether each court hearing is conducted in*
22 *person, by audio link, or by video conferencing.*

23 (6) *The date of each attorney entry of appear-*
24 *ance before an immigration judge using Form EOIR—*

1 28 and the scope of the appearance to which the form
2 related.

3 (d) *MAINTENANCE OF INFORMATION BY U.S. CUSTOMS*
4 *AND BORDER PROTECTION.*—*The Commissioner shall*
5 *record and maintain in the database of U.S. Customs and*
6 *Border Protection relating to detained aliens the following*
7 *information with respect to each alien detained pursuant*
8 *to the Immigration and Nationality Act (8 U.S.C. 1101 et*
9 *seq.):*

10 (1) *The provision of law that provides specific*
11 *authority for the alien’s detention and the beginning*
12 *and end dates of the alien’s detention.*

13 (2) *The place where the alien was apprehended.*

14 (3) *The gender and age of the alien.*

15 (4) *Each location where U.S. Customs and Bor-*
16 *der Protection detains the alien until the alien is re-*
17 *leased from custody or removed from the United*
18 *States, including any period of redetention.*

19 (5) *The number of days that the alien is de-*
20 *tained in the custody of U.S. Customs and Border*
21 *Protection.*

22 (6) *The immigration charges that are the basis*
23 *for the alien’s removal proceedings while the alien is*
24 *in the custody of U.S. Customs and Border Protec-*
25 *tion.*

1 (7) *The initial custody determination by U.S.*
2 *Customs and Border Protection, including whether*
3 *the alien received notice of a custody determination or*
4 *review, when the custody determination or review*
5 *took place, and whether U.S. Customs and Border*
6 *Protection offered the option of stipulated removal to*
7 *a detained alien.*

8 (8) *The reason for the alien's release from deten-*
9 *tion and the conditions of release to detention im-*
10 *posed on the alien, if applicable.*

11 (e) *REPORTING REQUIREMENTS.—*

12 (1) *PERIODIC REPORTS.—The Assistant Sec-*
13 *retary, the Director of the Executive Office of Immi-*
14 *gration Review, and the Commissioner shall periodi-*
15 *cally, but not less frequently than annually, submit to*
16 *Congress a report containing a summary of the infor-*
17 *mation required to be maintained by this section.*
18 *Each such report shall include summaries of na-*
19 *tional-level data as well as summaries of the informa-*
20 *tion required by this section by State and county.*

21 (2) *OTHER REPORTS.—The Assistant Secretary*
22 *shall report to Congress not less frequently than an-*
23 *nually on—*

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1 (A) *the number of aliens detained for more*
2 *than 3 months, 6 months, 1 year, and 2 years;*
3 *and*

4 (B) *the average period of detention before*
5 *receipt of a final administrative order of removal*
6 *and after receipt of such an order.*

7 (3) *AVAILABILITY TO PUBLIC.—The reports re-*
8 *quired under this subsection and the information for*
9 *each alien on which the reports are based shall be*
10 *made available to the public without the need to sub-*
11 *mit a request under section 552 of title 5, United*
12 *States Code (commonly referred to as the “Freedom of*
13 *Information Act”).*

14 (4) *PRIVACY PROTECTIONS.—No alien’s identity*
15 *may be disclosed when information described in para-*
16 *graph (3) is made publicly available.*

17 (f) *DEFINITIONS.—In this section:*

18 (1) *CASE OUTCOME.—The term “case outcome”*
19 *includes a grant of relief from deportation under sec-*
20 *tion 240A of the Immigration and Nationality Act (8*
21 *U.S.C. 1229b), voluntary departure pursuant to sec-*
22 *tion 240B of that Act (8 U.S.C. 1229c), removal pur-*
23 *suant to section 238 of that Act (8 U.S.C. 1228), judi-*
24 *cial termination of proceedings, termination of pro-*
25 *ceedings by U.S. Immigration and Customs Enforce-*

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1 *ment, cancellation of the notice to appear, or permis-*
2 *sion to withdraw application for admission without*
3 *any removal order being issued.*

4 (2) *PLACE WHERE THE ALIEN WAS APPRE-*
5 *HENDED.—The term “place where the alien was ap-*
6 *prehended” refers to the city, county, and State where*
7 *an alien is apprehended.*

8 (3) *REASON FOR THE ALIEN’S RELEASE FROM*
9 *DETENTION.—The term “reason for the alien’s release*
10 *from detention” refers to release on bond, on an*
11 *alien’s own recognizance, on humanitarian grounds,*
12 *after grant of relief, or due to termination of pro-*
13 *ceedings or removal.*

14 (4) *REMOVAL PROCEEDINGS.—The term “re-*
15 *moval proceedings” refers to a removal case of any*
16 *kind, including expedited removal, administrative re-*
17 *moval, stipulated removal, reinstatement, and vol-*
18 *untary removal and removals in which an applicant*
19 *is permitted to withdraw his or her application for*
20 *admission.*

21 (5) *STAGE.—The term “stage”, with respect to a*
22 *proceeding, refers to whether the alien is in pro-*
23 *ceedings before an immigration judge, the Board of*
24 *Immigration Appeals, a United States court of ap-*

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1 “(B) *If, in the course of an enforcement action that*
2 *is not initiated at or focused on a sensitive location, officers*
3 *or agents are led to or near a sensitive location, and no*
4 *exigent circumstance exists, such officers or agents shall*
5 *conduct themselves in a discreet manner, maintain surveil-*
6 *lance, and immediately consult their supervisor before tak-*
7 *ing any further enforcement action, in order to determine*
8 *whether such action should be discontinued.*

9 “(C) *This section not apply to the transportation of*
10 *an individual apprehended at or near a land or sea border*
11 *to a hospital or healthcare provider for the purpose of pro-*
12 *viding such individual medical care.*

13 “(4)(A) *Each official specified in subparagraph (B)*
14 *shall ensure that the employees under the supervision of*
15 *such official receive annual training on compliance with*
16 *the requirements of this subsection in enforcement actions*
17 *at or focused on sensitive locations and enforcement actions*
18 *that lead officers or agents to or near a sensitive location.*

19 “(B) *The officials specified in ths subparagraph are*
20 *the following:*

21 “(i) *The Chief Counsel of U.S. Immigration and*
22 *Customs Enforcement.*

23 “(ii) *The Field Office Directors of U.S. Immig-*
24 *ration and Customs Enforcement.*

1 “(iii) *Each Special Agent in Charge of U.S. Im-*
2 *migration and Customs Enforcement.*

3 “(iv) *Each Chief Patrol Agent of U.S. Customs*
4 *and Border Protection.*

5 “(v) *The Director of Field Operations of U.S.*
6 *Customs and Border Protection.*

7 “(vi) *The Director of Air and Marine Operations*
8 *of U.S. Customs and Border Protection.*

9 “(vii) *The Internal Affairs Special Agent in*
10 *Charge of U.S. Customs and Border Protection.*

11 “(5)(A) *The Director of U.S. Immigration and Cus-*
12 *toms Enforcement and the Commissioner of U.S. Customs*
13 *and Border Protection shall each submit to the appropriate*
14 *committees of Congress each year a report on the enforce-*
15 *ment actions undertaken by U.S. Immigration and Cus-*
16 *toms Enforcement and U.S. Customs and Border Protec-*
17 *tion, respectively, during the preceding year that were cov-*
18 *ered by this subsection.*

19 “(B) *Each report on an agency for a year under this*
20 *paragraph shall set forth the following:*

21 “(i) *The number of enforcement actions at or fo-*
22 *cused on a sensitive location.*

23 “(ii) *The number of enforcement actions where*
24 *officers or agents were subsequently led to or near a*
25 *sensitive location.*

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1 “(iii) *The date, site, and State, city, and county*
2 *in which each enforcement action covered by clause*
3 *(i) or (ii) occurred.*

4 “(iv) *The component of the agency responsible*
5 *for each such enforcement action.*

6 “(v) *A description of the intended target of each*
7 *such enforcement action.*

8 “(vi) *The number of individuals, if any, arrested*
9 *or taken into custody through each such enforcement*
10 *action.*

11 “(vii) *The number of collateral arrests, if any,*
12 *from each such enforcement action and the reasons for*
13 *each such arrest.*

14 “(viii) *A certification of whether the location ad-*
15 *ministrator was contacted prior to, during, or after*
16 *each such enforcement action.*

17 “(C) *Each report under this paragraph shall be made*
18 *available to the public without the need to submit a request*
19 *under section 552 of title 5, United States Code (commonly*
20 *referred to as the ‘Freedom of Information Act’).*

21 “(6) *In this subsection:*

22 “(A) *The term ‘appropriate committees of Con-*
23 *gress’ means—*

24 “(i) *the Committee on Homeland Security*
25 *and Governmental Affairs of the Senate;*

1 “(ii) the Committee on the Judiciary of the
2 Senate;

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

5 “(iv) the Committee on the Judiciary of the
6 House of Representatives.

7 “(B) The term ‘enforcement action’ means an ar-
8 rest, interview, search, or surveillance for the purposes
9 of immigration enforcement, and includes an enforce-
10 ment action at, or focused on, a sensitive location
11 that is part of a joint case led by another law enforce-
12 ment agency.

13 “(C) The term ‘exigent circumstances’ means a
14 situation involving the following:

15 “(i) The imminent risk of death, violence,
16 or physical harm to any person, including a sit-
17 uation implicating terrorism or the national se-
18 curity of the United States in some other man-
19 ner.

20 “(ii) The immediate arrest or pursuit of a
21 dangerous felon, terrorist suspect, or other indi-
22 vidual presenting an imminent danger or public
23 safety risk.

1 “(iii) *The imminent risk of destruction of*
2 *evidence that is material to an ongoing criminal*
3 *case.*

4 “(D) *The term ‘prior approval’ means the fol-*
5 *lowing:*

6 “(i) *In the case of officers and agents of*
7 *U.S. Immigration and Customs Enforcement,*
8 *prior written approval for a specific, targeted*
9 *operation from one of the following officials:*

10 “(I) *The Assistant Director of Oper-*
11 *ations, Homeland Security Investigations.*

12 “(II) *The Executive Associate Director*
13 *of Homeland Security Investigations.*

14 “(III) *The Assistant Director for Field*
15 *Operations, Enforcement, and Removal Op-*
16 *erations.*

17 “(IV) *The Executive Associate Director*
18 *for Field Operations, Enforcement, and Re-*
19 *moval Operations.*

20 “(i) *In the case of officers and agents of*
21 *U.S. Customs and Border Protection, prior writ-*
22 *ten approval for a specific, targeted operation*
23 *from one of the following officials:*

24 “(I) *A Chief Patrol Agent.*

25 “(II) *The Director of Field Operations.*

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1 “(III) *The Director of Air and Marine*
2 *Operations*

3 “(IV) *The Internal Affairs Special*
4 *Agent in Charge.*

5 “(E) *The term ‘sensitive location’ includes the*
6 *following:*

7 “(i) *Hospitals and health clinics.*

8 “(ii) *Public and private schools (including*
9 *pre-schools, primary schools, secondary schools,*
10 *postsecondary schools (including colleges and*
11 *universities), and other institutions of learning*
12 *such as vocational or trade schools).*

13 “(iii) *Organizations assisting children,*
14 *pregnant women, victims of crime or abuse, or*
15 *individuals with mental or physical disabilities.*

16 “(iv) *Churches, synagogues, mosques, and*
17 *other places of worship, such as buildings rented*
18 *for the purpose of religious services.*

19 “(v) *Such other locations as the Secretary of*
20 *Homeland Security shall specify for purposes of*
21 *this subsection.”.*

1 ***Subtitle H—Protection of Children***
2 ***Affected by Immigration En-***
3 ***forcement***

4 **SEC. 3801. SHORT TITLE.**

5 *This subtitle may be cited as the “Humane Enforce-*
6 *ment and Legal Protections for Separated Children Act”*
7 *or the “HELP Separated Children Act”.*

8 **SEC. 3802. DEFINITIONS.**

9 *In this subtitle:*

10 (1) *APPREHENSION.—The term “apprehension”*
11 *means the detention or arrest by officials of the De-*
12 *partment or cooperating entities.*

13 (2) *CHILD.—The term “child” means an indi-*
14 *vidual who has not attained 18 years of age.*

15 (3) *CHILD WELFARE AGENCY.—The term “child*
16 *welfare agency” means a State or local agency re-*
17 *sponsible for child welfare services under subtitles B*
18 *and E of title IV of the Social Security Act (42*
19 *U.S.C. 601 et seq.).*

20 (4) *COOPERATING ENTITY.—The term “cooper-*
21 *ating entity” means a State or local entity acting*
22 *under agreement with the Secretary.*

23 (5) *DETENTION FACILITY.—The term “detention*
24 *facility” means a Federal, State, or local government*
25 *facility, or a privately owned and operated facility,*

1 *that is used, in whole or in part, to hold individuals*
2 *under the authority of the Director of U.S. Immigra-*
3 *tion and Customs Enforcement, including facilities*
4 *that hold such individuals under a contract or agree-*
5 *ment with the Director.*

6 (6) *IMMIGRATION ENFORCEMENT ACTION.*—*The*
7 *term “immigration enforcement action” means the*
8 *apprehension of 1 or more individuals whom the De-*
9 *partment has reason to believe are removable from the*
10 *United States by the Secretary or a cooperating enti-*
11 *ty.*

12 (7) *PARENT.*—*The term “parent” means a bio-*
13 *logical or adoptive parent of a child, whose parental*
14 *rights have not been relinquished or terminated under*
15 *State law or the law of a foreign country, or a legal*
16 *guardian under State law or the law of a foreign*
17 *country.*

18 **SEC. 3803. APPREHENSION PROCEDURES FOR IMMIGRA-**
19 **TION ENFORCEMENT-RELATED ACTIVITIES.**

20 (a) *APPREHENSION PROCEDURES.*—*In any immigra-*
21 *tion enforcement action, the Secretary and cooperating enti-*
22 *ties shall—*

23 (1) *as soon as possible, but generally not later*
24 *than 2 hours after an immigration enforcement ac-*
25 *tion, inquire whether an individual is a parent or*

1 *primary caregiver of a child in the United States and*
2 *provide any such individuals with—*

3 *(A) the opportunity to make a minimum of*
4 *2 telephone calls to arrange for the care of such*
5 *child in the individual's absence; and*

6 *(B) contact information for—*

7 *(i) child welfare agencies and family*
8 *courts in the same jurisdiction as the child;*
9 *and*

10 *(ii) consulates, attorneys, and legal*
11 *service providers capable of providing free*
12 *legal advice or representation regarding*
13 *child welfare, child custody determinations,*
14 *and immigration matters;*

15 *(2) notify the child welfare agency with jurisdic-*
16 *tion over the child if the child's parent or primary*
17 *caregiver is unable to make care arrangements for the*
18 *child or if the child is in imminent risk of serious*
19 *harm;*

20 *(3) ensure that personnel of the Department and*
21 *cooperating entities do not, absent medical necessity*
22 *or extraordinary circumstances, compel or request*
23 *children to interpret or translate for interviews of*
24 *their parents or of other individuals who are encoun-*

1 *tered as part of an immigration enforcement action;*
2 *and*

3 *(4) ensure that any parent or primary caregiver*
4 *of a child in the United States—*

5 *(A) absent medical necessity or extraor-*
6 *dinary circumstances, is not transferred from his*
7 *or her area of apprehension until the indi-*
8 *vidual—*

9 *(i) has made arrangements for the care*
10 *of such child; or*

11 *(ii) if such arrangements are unavail-*
12 *able or the individual is unable to make*
13 *such arrangements, is informed of the care*
14 *arrangements made for the child and of a*
15 *means to maintain communication with the*
16 *child;*

17 *(B) absent medical necessity or extraor-*
18 *dinary circumstances, and to the extent prac-*
19 *ticable, is placed in a detention facility either—*

20 *(i) proximate to the location of appre-*
21 *hension; or*

22 *(ii) proximate to the individual's ha-*
23 *bitual place of residence; and*

24 *(C) receives due consideration of the best in-*
25 *terests of such child in any decision or action re-*

1 *lating to his or her detention, release, or transfer*
2 *between detention facilities.*

3 **(b) REQUESTS TO STATE AND LOCAL ENTITIES.**—*If*
4 *the Secretary requests a State or local entity to hold in cus-*
5 *tody an individual whom the Department has reason to be-*
6 *lieve is removable pending transfer of that individual to*
7 *the custody of the Secretary or to a detention facility, the*
8 *Secretary shall also request that the State or local entity*
9 *provide the individual the protections specified in para-*
10 *graphs (1) and (2) of subsection (a), if that individual is*
11 *found to be the parent or primary caregiver of a child in*
12 *the United States.*

13 **(c) PROTECTIONS AGAINST TRAFFICKING PRE-**
14 *SERVED.*—*The provisions of this section shall not be con-*
15 *strued to impede, delay, or in any way limit the obligations*
16 *of the Secretary, the Attorney General, or the Secretary of*
17 *Health and Human Services under section 235 of the Wil-*
18 *liam Wilberforce Trafficking Victims Protection Reauthor-*
19 *ization Act of 2008 (8 U.S.C. 1232) or section 462 of the*
20 *Homeland Security Act of 2002 (6 U.S.C. 279).*

21 **SEC. 3804. ACCESS TO CHILDREN, STATE AND LOCAL**
22 **COURTS, CHILD WELFARE AGENCIES, AND**
23 **CONSULAR OFFICIALS.**

24 *At all detention facilities, the Secretary shall—*

1 (1) *prominently post in a manner accessible to*
2 *detainees and visitors and include in detainee hand-*
3 *books information on the protections of this subtitle as*
4 *well as information on potential eligibility for parole*
5 *or release;*

6 (2) *absent extraordinary circumstances, ensure*
7 *that individuals who are detained by the Department*
8 *and are parents of children in the United States*
9 *are—*

10 (A) *permitted regular phone calls and con-*
11 *tact visits with their children;*

12 (B) *provided with contact information for*
13 *child welfare agencies and family courts in the*
14 *relevant jurisdictions;*

15 (C) *able to participate fully and, to the ex-*
16 *tent possible, in person in all family court pro-*
17 *ceedings and any other proceedings that may*
18 *impact their right to custody of their children;*

19 (D) *granted free and confidential telephone*
20 *calls to relevant child welfare agencies and fam-*
21 *ily courts as often as is necessary to ensure that*
22 *the best interest of their children, including a*
23 *preference for family unity whenever appro-*
24 *priate, can be considered in child welfare agency*
25 *or family court proceedings;*

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1 (E) able to fully comply with all family
2 court or child welfare agency orders impacting
3 custody of their children;

4 (F) provided access to United States pass-
5 port applications or other relevant travel docu-
6 ment applications for the purpose of obtaining
7 travel documents for their children;

8 (G) afforded timely access to a notary pub-
9 lic for the purpose of applying for a passport for
10 their children or executing guardianship or other
11 agreements to ensure the safety of their children;
12 and

13 (H) granted adequate time before removal to
14 obtain passports, apostilled birth certificates,
15 travel documents, and other necessary records on
16 behalf of their children if such children will ac-
17 company them on their return to their country
18 of origin or join them in their country of origin;
19 and

20 (3) where doing so would not impact public safe-
21 ty or national security, facilitate the ability of de-
22 tained alien parents and primary caregivers to share
23 information regarding travel arrangements with their
24 consulate, children, child welfare agencies, or other

1 *caregivers in advance of the detained alien individ-*
2 *ual's departure from the United States.*

3 **SEC. 3805. MANDATORY TRAINING.**

4 *The Secretary, in consultation with the Secretary of*
5 *Health and Human Services, the Secretary of State, the At-*
6 *torney General, and independent child welfare and family*
7 *law experts, shall develop and provide training on the pro-*
8 *tections required under sections 3803 and 3804 to all per-*
9 *sonnel of the Department, cooperating entities, and deten-*
10 *tion facilities operated by or under agreement with the De-*
11 *partment who regularly engage in immigration enforcement*
12 *actions and in the course of such actions come into contact*
13 *with individuals who are parents or primary caregivers of*
14 *children in the United States.*

15 **SEC. 3806. RULEMAKING.**

16 *Not later than 180 days after the date of the enactment*
17 *of this Act, the Secretary shall promulgate regulations to*
18 *implement sections 3803 and 3804 of this Act.*

19 **SEC. 3807. SEVERABILITY.**

20 *If any provision of this subtitle or amendment made*
21 *by this subtitle, or the application of a provision or amend-*
22 *ment to any person or circumstance, is held to be unconsti-*
23 *tutional, the remainder of this subtitle and amendments*
24 *made by this subtitle, and the application of the provisions*

1 *and amendment to any person or circumstance, shall not*
2 *be affected by the holding.*

3 **TITLE IV—REFORMS TO NON-**
4 **IMMIGRANT VISA PROGRAMS**
5 **Subtitle A—Employment-based**
6 **Nonimmigrant Visas**

7 **SEC. 4101. MARKET-BASED H-1B VISA LIMITS.**

8 *(a) IN GENERAL.—Section 214(g) (8 U.S.C. 1184(g))*
9 *is amended—*

10 *(1) in paragraph (1)—*

11 *(A) in the matter preceding subparagraph*
12 *(A), by striking “(beginning with fiscal year*
13 *1992)”;* and

14 *(B) by amending subparagraph (A) to read*
15 *as follows:*

16 *“(A) under section 101(a)(15)(H)(i)(b) may*
17 *not exceed the sum of—*

18 *“(i) the base allocation calculated*
19 *under paragraph (9)(A); and*

20 *“(ii) the allocation adjustment cal-*
21 *culated under paragraph (9)(B); and”;*

22 *(2) by redesignating paragraph (10) as subpara-*
23 *graph (D) of paragraph (9);*

24 *(3) by redesignating paragraph (9) as para-*
25 *graph (10); and*

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1 (4) *by inserting after paragraph (8) the fol-*
2 *lowing:*

3 “(9)(A) *Except as provided in subparagraph (C), the*
4 *base allocation of nonimmigrant visas under section*
5 *101(a)(15)(H)(i)(b) for each fiscal year shall be equal to—*

6 “(i) *the sum of—*

7 “(I) *the base allocation for the most recently*
8 *completed fiscal year; and*

9 “(II) *the allocation adjustment under sub-*
10 *paragraph (B) for the most recently completed*
11 *fiscal year;*

12 “(ii) *if the number calculated under clause (i) is*
13 *less than 115,000, 115,000; or*

14 “(iii) *if the number calculated under clause (i)*
15 *is more than 180,000, 180,000.*

16 “(B)(i) *If the number of cap-subject nonimmigrant*
17 *visa petitions accepted for filing under section*
18 *101(a)(15)(H)(i)(b) during the first 45 days petitions may*
19 *be filed for a fiscal year is equal to the base allocation for*
20 *such fiscal year, an additional 20,000 such visas shall be*
21 *made available beginning on the 46th day on which peti-*
22 *tions may be filed for such fiscal year.*

23 “(ii) *If the base allocation of cap-subject non-*
24 *immigrant visa petitions accepted for filing under section*
25 *101(a)(15)(H)(i)(b) for a fiscal year is reached during the*

1 15-day period ending on the 60th day on which petitions
2 may be filed for such fiscal year, an additional 15,000 such
3 visas shall be made available beginning on the 61st day
4 on which petitions may be filed for such fiscal year.

5 “(iii) If the base allocation of cap-subject non-
6 immigrant visa petitions accepted for filing under section
7 101(a)(15)(H)(i)(b) for a fiscal year is reached during the
8 30-day period ending on the 90th day on which petitions
9 may be filed for such fiscal year, an additional 10,000 such
10 visas shall be made available beginning on the 91st day
11 on which petitions may be filed for such fiscal year.

12 “(iv) If the base allocation of cap-subject non-
13 immigrant visa petitions accepted for filing under section
14 101(a)(15)(H)(i)(b) for a fiscal year is reached during the
15 185-day period ending on the 275th day on which petitions
16 may be filed for such fiscal year, an additional 5,000 such
17 visas shall be made available beginning on the date on
18 which such allocation is reached.

19 “(v) If the number of cap-subject nonimmigrant visa
20 petitions accepted for filing under section
21 101(a)(15)(H)(i)(b) for a fiscal year is at least 5,000 fewer
22 than the base allocation, but is not more than 9,999 fewer
23 than the base allocation, the allocation adjustment for the
24 following fiscal year shall be -5,000.

1 “(vi) If the number of cap-subject nonimmigrant visa
2 petitions accepted for filing under section
3 101(a)(15)(H)(i)(b) for a fiscal year is at least 10,000 fewer
4 than the base allocation, but not more than 14,999 fewer
5 than the base allocation, the allocation adjustment for the
6 following fiscal year shall be -10,000.

7 “(vii) If the number of cap-subject nonimmigrant visa
8 petitions accepted for filing under section
9 101(a)(15)(H)(i)(b) for a fiscal year is at least 15,000 fewer
10 than the base allocation, but not more than 19,999 fewer
11 than the base allocation, the allocation adjustment for the
12 following fiscal year shall be -15,000.

13 “(viii) If the number of cap-subject nonimmigrant visa
14 petitions accepted for filing under section
15 101(a)(15)(H)(i)(b) for a fiscal year is at least 20,000 fewer
16 than the base allocation, the allocation adjustment for the
17 following fiscal year shall be -20,000.

18 “(C) No allocation adjustment may take place under
19 any of clauses (i) through (iv) of subparagraph (B) to make
20 additional visas available for any fiscal year in which the
21 national occupational unemployment rate for ‘Manage-
22 ment, Professional, and Related Occupations’, as published
23 by the Bureau of Labor Statistics each month, averages 4.5
24 percent or greater over the 12-month period preceding the

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1 *date of the Secretary's determination of whether the cap*
2 *should be increased or decreased."*

3 (b) *INCREASE IN ALLOCATION FOR STEM NON-*
4 *IMMIGRANTS.—Section 214(g)(5)(C) (8 U.S.C.*
5 *1184(g)(5)(C)) is amended to read as follows:*

6 "C) *has earned a master's or higher degree, in*
7 *a field of science, technology, engineering, or math in-*
8 *cluded in the Department of Education's Classifica-*
9 *tion of Instructional Programs taxonomy within the*
10 *summary groups of computer and information*
11 *sciences and support services, engineering, mathe-*
12 *matics and statistics, biological and biomedical*
13 *sciences, and physical sciences, from a United States*
14 *institution of higher education (as defined in section*
15 *101(a) of the Higher Education Act of 1965 (20*
16 *U.S.C. 1001(a)) until the number of aliens who are*
17 *exempted from such numerical limitation during such*
18 *year exceed 25,000."*

19 (c) *PUBLICATION.—*

20 (1) *DATA SUMMARIZING PETITIONS.—The Sec-*
21 *retary shall timely upload to a public website data*
22 *that summarizes the adjudication of nonimmigrant*
23 *petitions under section 101(a)(15)(H)(i)(b) of the Im-*
24 *migration and Nationality Act (8 U.S.C.*
25 *1101(a)(15)(H)(i)(b)) during each fiscal year.*

1 (2) *ANNUAL NUMERICAL LIMITATION.*—As soon
2 as practicable and no later than March 2 of each fis-
3 cal year, the Secretary shall publish in the Federal
4 Register the numerical limitation determined under
5 section 214(g)(1)(A) for such fiscal year.

6 (d) *EFFECTIVE DATE AND APPLICATION.*—The amend-
7 ments made by subsection (a) shall take effect on the first
8 day of the first fiscal year beginning after the date of the
9 enactment of this Act and apply to applications for non-
10 immigrant visas under section 101(a)(15)(H)(i)(b) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1101(a)(15)(H)(i)(b)) for such fiscal year.

13 **SEC. 4102. EMPLOYMENT AUTHORIZATION FOR DEPEND-**
14 **ENTS OF EMPLOYMENT-BASED NON-**
15 **IMMIGRANTS.**

16 Section 214(c) (8 U.S.C. 1184(c)) is amended—

17 (1) by striking “Attorney General” each place
18 such term appears and inserting “Secretary of Home-
19 land Security”; and

20 (2) in paragraph (2), by amending subpara-
21 graph (E) to read as follows:

22 “(E)(i) In the case of an alien spouse admitted under
23 section 101(a)(15)(L), who is accompanying or following
24 to join a principal alien admitted under such section, the
25 Secretary of Homeland Security shall—

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1 “(I) authorize the alien spouse to engage in em-
2 ployment in the United States; and

3 “(II) provide the spouse with an ‘employment
4 authorized’ endorsement or other appropriate work
5 permit.

6 “(ii) In the case of an alien spouse admitted under
7 section 101(a)(15)(H)(i)(b), who is accompanying or fol-
8 lowing to join a principal alien admitted under such sec-
9 tion, the Secretary of Homeland Security shall—

10 “(I) authorize the alien spouse to engage in em-
11 ployment in the United States; and

12 “(II) provide such a spouse with an ‘employment
13 authorized’ endorsement or other appropriate work
14 permit, if appropriate.

15 “(iii)(I) Upon the request of the Secretary of State,
16 the Secretary of Homeland Security may suspend employ-
17 ment authorizations under clause (ii) to nationals of a for-
18 eign country that does not permit reciprocal employment
19 to nationals of the United States who are accompanying
20 or following to join the employment-based nonimmigrant
21 husband or wife of such spouse to be employed in such for-
22 eign country based on that status.

23 “(II) In subclause (I), the term ‘employment-based
24 nonimmigrant’ means an individual who is admitted to a

1 *foreign country to perform employment similar to the em-*
2 *ployment described in section 101(a)(15)(H)(i)(b).”.*

3 **SEC. 4103. ELIMINATING IMPEDIMENTS TO WORKER MOBIL-**
4 **ITY.**

5 (a) *DEFERENCE TO PRIOR APPROVALS.*—Section
6 214(c) (8 U.S.C. 1184(c)), as amended by section 4102, is
7 further amended by adding at the end the following:

8 “(15) Subject to paragraph (2)(D) and subsection (g)
9 and section 104(c) and subsections (a) and (b) of section
10 106 of the American Competitiveness in the Twenty-first
11 Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1184
12 note), the Secretary of Homeland Security shall give def-
13 erence to a prior approval of a petition in reviewing a peti-
14 tion to extend the status of a nonimmigrant admitted under
15 subparagraph (H)(i)(b) or (L) of section 101(a)(15) if the
16 petition involves the same alien and petitioner unless the
17 Secretary determines that—

18 “(A) there was a material error with regard to
19 the previous petition approval;

20 “(B) a substantial change in circumstances has
21 taken place;

22 “(C) new material information has been discov-
23 ered that adversely impacts the eligibility of the em-
24 ployer or the nonimmigrant; or

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1 “(D) in the Secretary’s discretion, such extension
2 should not be approved.”.

3 (b) *EFFECT OF EMPLOYMENT TERMINATION.*—Section
4 214(n) (8 U.S.C. 1184(n)) is amended by adding at the end
5 the following:

6 “(3) A nonimmigrant admitted under section
7 101(a)(15)(H)(i)(b) whose employment relationship termi-
8 nates before the expiration of the nonimmigrant’s period of
9 authorized admission shall be deemed to have retained such
10 legal status throughout the entire 60-day period beginning
11 on the date such employment is terminated. A non-
12 immigrant who files a petition to extend, change, or adjust
13 their status at any point during such period shall be deemed
14 to have lawful status under section 101(a)(15)(H)(i)(b)
15 while that petition is pending.”.

16 (c) *VISA REVALIDATION.*—Section 222(c) (8 U.S.C.
17 1202(c)) is amended—

18 (1) by inserting “(1)” before “Every alien”; and

19 (2) by adding at the end the following:

20 “(2) The Secretary of State may, at the Secretary’s
21 discretion, renew in the United States the visa of an alien
22 admitted under subparagraph (A), (E), (G), (H), (I), (L),
23 (N), (O), (P), (R), or (W) of section 101(a)(15) if the alien
24 has remained eligible for such status and qualifies for a

1 *waiver of interview as provided for in subsection*
2 *(h)(1)(D).”.*

3 *(d) INTERVIEW WAIVERS FOR LOW RISK VISA APPLI-*
4 *CANTS.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is amend-*
5 *ed—*

6 *(1) in subparagraph (B)(iv), by striking “or” at*
7 *the end;*

8 *(2) in subparagraph (C)(ii), by striking “and”*
9 *at the end and inserting “or”; and*

10 *(3) by adding at the end the following:*

11 *“(D) by the Secretary of State, in consulta-*
12 *tion with the Secretary of Homeland Security,*
13 *for such aliens or classes of aliens—*

14 *“(i) that the Secretary determines gen-*
15 *erally represent a low security risk;*

16 *“(ii) for which an in-person interview*
17 *would not add material benefit to the adju-*
18 *ication process;*

19 *“(iii) unless the Secretary of State,*
20 *after a review of all standard database and*
21 *biometric checks, the visa application, and*
22 *other supporting documents, determines that*
23 *an interview is unlikely to reveal deroga-*
24 *tory information; and*

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1 “(iv) except that in every case, the Sec-
2 retary of State retains the right to require
3 an applicant to appear for an interview;
4 and”.

5 **SEC. 4104. STEM EDUCATION AND TRAINING.**

6 (a) *FEE.*—Section 212(a)(5)(A) (8 U.S.C.
7 1182(a)(5)(A)) is amended by adding at the end the fol-
8 lowing:

9 “(v) *FEE.*—An employer shall submit,
10 along with an application for a certifi-
11 cation under this subparagraph, a fee of
12 \$1,000, which shall be deposited in the
13 STEM Education and Training Account es-
14 tablished under section 286(w).”.

15 (b) *H-1B NONIMMIGRANT PETITIONER ACCOUNT.*—
16 Section 286(s) (8 U.S.C. 1356(s)) is amended by striking
17 paragraphs (3) and (4) and inserting the following:

18 “(3) *LOW-INCOME STEM SCHOLARSHIP PRO-*
19 *GRAM.*—

20 “(A) *IN GENERAL.*—Thirty percent of the
21 amounts deposited into the H-1B Nonimmigrant
22 Petitioner Account shall remain available to the
23 Director of the National Science Foundation
24 until expended for scholarships described in sec-
25 tion 414(d) of the American Competitiveness and

1 *Workforce Improvement Act of 1998 (42 U.S.C.*
2 *1869c) for low-income students enrolled in a pro-*
3 *gram of study leading to a degree in science,*
4 *technology, engineering, or mathematics.*

5 “(B) *STEM EDUCATION FOR UNDERREP-*
6 *RESENTED.—The Director shall work in con-*
7 *sultation with, or direct scholarship funds*
8 *through, national nonprofit organizations that*
9 *primarily focus on science, technology, engineer-*
10 *ing, or mathematics education for underrep-*
11 *resented groups, such as women and minorities.*

12 “(C) *LOAN FORGIVENESS.—The Director*
13 *may expend funds from the Account for purposes*
14 *of loan forgiveness or repayment of student loans*
15 *which led to a low-income student obtaining a*
16 *degree in science, technology, engineering, mathe-*
17 *matics, or other high demand fields.*

18 “(4) *NATIONAL SCIENCE FOUNDATION GRANT*
19 *PROGRAM FOR K–12 SCIENCE, TECHNOLOGY, ENGI-*
20 *NEERING, AND MATHEMATICS EDUCATION.—*

21 “(A) *IN GENERAL.—Ten percent of the*
22 *amounts deposited into the H–1B Nonimmigrant*
23 *Petitioner Account shall remain available to the*
24 *Director of the National Science Foundation*
25 *until expended to carry out a direct or matching*

1 *grant program to support improvement in K–12*
2 *education, including through private-public*
3 *partnerships. Grants awarded pursuant to this*
4 *paragraph shall include formula based grants*
5 *that target lower income populations with a*
6 *focus on reaching women and minorities.*

7 “(B) *TYPES OF PROGRAMS COVERED.*—*The*
8 *Director shall award grants to programs that—*

9 “(i) *support the development and im-*
10 *plementation of standards-based instruc-*
11 *tional materials models and related student*
12 *assessments that enable K–12 students to*
13 *acquire an understanding of science, tech-*
14 *nology, engineering, and mathematics, and*
15 *to develop critical thinking skills;*

16 “(ii) *provide systemic improvement in*
17 *training K–12 teachers and education for*
18 *students in science, technology, engineering,*
19 *and mathematics, including by supporting*
20 *efforts to promote gender-equality among*
21 *students receiving such instruction;*

22 “(iii) *support the professional develop-*
23 *ment of K–12 science, technology, engineer-*
24 *ing, and mathematics teachers in the use of*
25 *technology in the classroom;*

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1 “(iv) *stimulate systemwide K–12 re-*
2 *form of science, technology, engineering, and*
3 *mathematics in urban, rural, and economi-*
4 *cally disadvantaged regions of the United*
5 *States;*

6 “(v) *provide externships and other op-*
7 *portunities for students to increase their ap-*
8 *preciation and understanding of science,*
9 *technology, engineering, and mathematics*
10 *(including summer institutes sponsored by*
11 *an institution of higher education for stu-*
12 *dents in grades 7 through 12 that provide*
13 *instruction in such fields);*

14 “(vi) *involve partnerships of industry,*
15 *educational institutions, and national or*
16 *regional community based organizations*
17 *with demonstrated experience addressing the*
18 *educational needs of disadvantaged commu-*
19 *nities;*

20 “(vii) *provide college preparatory sup-*
21 *port to expose and prepare students for ca-*
22 *reers in science, technology, engineering,*
23 *and mathematics; or*

24 “(viii) *provide for carrying out sys-*
25 *temic reform activities under section 3(a)(1)*

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1 *of the National Science Foundation Act of*
2 *1950 (42 U.S.C. 1862(a)(1)).”*

3 (c) *USE OF FEE.—Section 286 (8 U.S.C. 1356) is*
4 *amended by adding at the end the following:*

5 “(w) *STEM EDUCATION AND TRAINING ACCOUNT.—*

6 “(1) *IN GENERAL.—There is established in the*
7 *general fund of the Treasury a separate account,*
8 *which shall be known as the ‘STEM Education and*
9 *Training Account’. Notwithstanding any other section*
10 *of this title, there shall be deposited as offsetting re-*
11 *ceipts into the Account all of the fees collected under*
12 *section 212(a)(5)(A)(v).*

13 “(2) *PURPOSES.—*

14 “(A) *IN GENERAL.—The purposes of the*
15 *STEM Education and Training Account are to*
16 *enhance the economic competitiveness of the*
17 *United States by—*

18 “(i) *strengthening STEM education,*
19 *including in computer science, at all levels;*

20 “(ii) *ensuring that schools have access*
21 *to well-trained and effective STEM teachers;*

22 “(iii) *supporting efforts to strengthen*
23 *the elementary and secondary curriculum,*
24 *including efforts to make courses in com-*
25 *puter science more broadly available; and*

1 “(iv) helping colleges and universities
2 produce more graduates in fields needed by
3 American employers.

4 “(B) *DEFINED TERM.*—In this paragraph,
5 the term ‘STEM education’ means instruction in
6 a field of science, technology, engineering or
7 math included in the Department of Education’s
8 *Classification of Instructional Programs tax-*
9 *onomy within the summary groups of computer*
10 *and information sciences and support services,*
11 *engineering, mathematics and statistics, biologi-*
12 *cal and biomedical sciences, and physical*
13 *sciences.*

14 “(3) *ALLOCATIONS TO STATES AND TERRI-*
15 *TORIES.*—

16 “(A) *IN GENERAL.*—Subject to subpara-
17 graph (B), the Secretary of Education shall pro-
18 portionately allocate 70 percent of the amounts
19 deposited into the STEM Education and Train-
20 ing Account each fiscal year to the 50 States, the
21 District of Columbia, the Commonwealth of
22 Puerto Rico, Guam, the United States Virgin Is-
23 lands, American Samoa, and the Northern Mar-
24 iana Islands in an amount that bears the same
25 relationship as the proportion the State, district,

1 *or territory received under subpart 2 of part A*
2 *of title I of the Elementary and Secondary Edu-*
3 *cation Act of 1965 (20 U.S.C. 6331 et seq.) for*
4 *the preceding fiscal year bears to the amount all*
5 *States and territories received under that sub-*
6 *part for the preceding fiscal year.*

7 “(B) *MINIMUM ALLOCATIONS.*—*No State or*
8 *territory shall receive less than an amount equal*
9 *to 0.5 percent of the total amount made available*
10 *to all States from the STEM Education and*
11 *Training Account. If a State or territory does*
12 *not request an allocation from the Account for a*
13 *fiscal year, the Secretary shall reallocate the*
14 *State’s allocation to the remaining States and*
15 *territories in accordance with this paragraph.*

16 “(C) *USE OF FUNDS.*—*Amounts allocated*
17 *pursuant to this paragraph may be used for the*
18 *activities described in section 4104(c) of the Bor-*
19 *der Security, Economic Opportunity, and Immi-*
20 *gration Modernization Act.*

21 “(4) *STEM CAPACITY BUILDING AT MINORITY-*
22 *SERVING INSTITUTIONS.*—

23 “(A) *IN GENERAL.*—*The Secretary of Edu-*
24 *cation shall allocate 20 percent of the amounts*
25 *deposited into the STEM Education and Train-*

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1 *ing Account to establish or expand programs to*
2 *award grants to institutions described in sub-*
3 *paragraph (C)—*

4 *“(i) to enhance the quality of under-*
5 *graduate science, technology, engineering,*
6 *and mathematics education at such institu-*
7 *tions; and*

8 *“(ii) to increase the retention and*
9 *graduation rates of students pursuing de-*
10 *grees in such fields at such institutions.*

11 *“(B) TYPES OF PROGRAMS COVERED.—*
12 *Grants awarded under this paragraph shall be*
13 *awarded to—*

14 *“(i) minority-serving institutions of*
15 *higher education for—*

16 *“(I) activities to improve courses*
17 *and curriculum in science, technology,*
18 *engineering, and mathematics;*

19 *“(II) efforts to promote gender*
20 *equality among students enrolled in*
21 *such courses;*

22 *“(III) faculty development;*

23 *“(IV) stipends for undergraduate*
24 *students participating in research; and*

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1 “(V) *other activities consistent*
2 *with subparagraph (A), as determined*
3 *by the Secretary of Education; and*

4 “(ii) *to other institutions of higher*
5 *education to partner with the institutions*
6 *described in clause (i) for—*

7 “(I) *faculty and student develop-*
8 *ment and exchange;*

9 “(II) *research infrastructure de-*
10 *velopment;*

11 “(III) *joint research projects; and*

12 “(IV) *identification and develop-*
13 *ment of minority and low-income can-*
14 *didates for graduate studies in science,*
15 *technology, engineering, and mathe-*
16 *matics degree programs.*

17 “(C) *INSTITUTIONS INCLUDED.—In this*
18 *paragraph, the term ‘institutions’ shall in-*
19 *clude—*

20 “(i) *colleges eligible to receive funds*
21 *under the Act of August 30, 1890 (7 U.S.C.*
22 *321–326a and 328), including Tuskegee*
23 *University;*

24 “(ii) *1994 Institutions, as defined in*
25 *section 532 of the Equity in Educational*

1 *Land-Grant Status Act of 1994 (7 U.S.C.*
2 *301 note);*

3 “*(iii) part B institutions (as defined*
4 *in section 322 of the Higher Education Act*
5 *of 1965 (20 U.S.C. 1061)); and*

6 “*(iv) Hispanic-serving institutions, as*
7 *defined in section 502(a)(5) of the Higher*
8 *Education Act of 1965 (20 U.S.C.*
9 *1101a(a)(5)).*

10 “(D) *GRANTING OF BONDING AUTHORITY.—*
11 *A recipient of a grant awarded under this para-*
12 *graph is authorized to utilize such funds for the*
13 *issuance of bonds to fund research infrastructure*
14 *development.*

15 “(E) *LOAN FORGIVENESS.—The Director*
16 *may expend funds from the allocation under this*
17 *paragraph for purposes of loan forgiveness or re-*
18 *payment of student loans which led to a low-in-*
19 *come student obtaining a degree in science, tech-*
20 *nology, engineering, mathematics, or other high*
21 *demand fields.*

22 “(5) *WORKFORCE INVESTMENT.—The Secretary*
23 *of Education shall allocate 5 percent of the amounts*
24 *deposited into the STEM Education and Training*
25 *Account to the Secretary of Labor until expended for*

1 *statewide workforce investment activities that may*
2 *also benefit veterans and their spouses, including*
3 *youth activities and statewide employment and train-*
4 *ing and activities for adults and dislocated workers*
5 *described in section 128(a) of the Workforce Invest-*
6 *ment Act of 1998 (29 U.S.C. 2853(a)), and the devel-*
7 *opment of licensing and credentialing programs.*

8 “(6) *AMERICAN DREAM ACCOUNTS.*—*The Sec-*
9 *retary of Education shall allocate 3 percent of the*
10 *amounts deposited into the STEM Education and*
11 *Training Account to award grants, on a competitive*
12 *basis, to eligible entities to enable such eligible entities*
13 *to establish and administer American Dream Ac-*
14 *counts under section 4104(e) of the Illegal Immigra-*
15 *tion Reform and Immigrant Responsibility Act of*
16 *1996.*

17 “(7) *ADMINISTRATION EXPENSES.*—*The Sec-*
18 *retary of Education may expend up to 2 percent of*
19 *the amounts deposited into the STEM Education and*
20 *Training Account for administrative expenses, includ-*
21 *ing conducting an annual evaluation of the imple-*
22 *mentation and impact of the activities funded by the*
23 *STEM Education and Training Account as required*
24 *under section 4104(c)(3) of the Border Security, Eco-*

1 *conomic Opportunity, and Immigration Modernization*
2 *Act.”.*

3 *(d) STEM EDUCATION GRANTS.—*

4 *(1) APPLICATION PROCESS.—*

5 *(A) IN GENERAL.—Each Governor and*
6 *Chief State School Officer desiring an allocation*
7 *from the STEM Education and Training Ac-*
8 *count under section 286(w)(3) of the Immigra-*
9 *tion and Nationality Act, as added by subsection*
10 *(b), shall jointly submit a plan, including a pro-*
11 *posed budget, signed by the Governor and Chief*
12 *State School Officer, to the Secretary of Edu-*
13 *cation at such time, in such form, and including*
14 *such information as the Secretary of Education*
15 *may prescribe pursuant to subparagraph (B).*
16 *The plan shall describe how the State plans to*
17 *improve STEM education to meet the needs of*
18 *students and employers in the State.*

19 *(B) RULEMAKING.—The Secretary of Edu-*
20 *cation shall issue a rule, through a rulemaking*
21 *procedure that complies with section 553 of title*
22 *5, United States Code, prescribing the informa-*
23 *tion that should be included in the State plans*
24 *submitted under subparagraph (A).*

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1 (2) *ALLOWABLE ACTIVITIES.*—A State, district,
2 or territory that receives funding from the STEM
3 Education and Training Account may use such fund-
4 ing to develop and implement science, technology, en-
5 gineering, and mathematics (STEM) activities to
6 serve students, including students of underrepresented
7 groups such as minorities, economically disadvan-
8 taged, and females by—

9 (A) strengthening the State’s STEM aca-
10 demic achievement standards;

11 (B) implementing strategies for the recruit-
12 ment, training, placement, and retention of
13 teachers in STEM fields, including computer
14 science;

15 (C) carrying out initiatives designed to as-
16 sist students in succeeding and graduating from
17 postsecondary STEM programs;

18 (D) improving the availability and access
19 to STEM-related worker training programs, in-
20 cluding community college courses and pro-
21 grams;

22 (E) forming partnerships with higher edu-
23 cation, economic development, workforce, indus-
24 try, and local educational agencies; or

1 (F) *engaging in other activities, as deter-*
2 *mined by the State, in consultation with busi-*
3 *nesses and State agencies, to improve STEM*
4 *education.*

5 (3) *NATIONAL EVALUATION.—*

6 (A) *IN GENERAL.—Using amounts allocated*
7 *under section 286(w)(7) of the Immigration and*
8 *Nationality Act, as added by subsection (b), the*
9 *Secretary of Education shall conduct, directly or*
10 *through a grant or contract, an annual evalua-*
11 *tion of the implementation and impact of the ac-*
12 *tivities funded by the STEM Education and*
13 *Training Account.*

14 (B) *ANNUAL REPORT.—The Secretary shall*
15 *submit a report describing the results of each*
16 *evaluation conducted under subparagraph (A)*
17 *to—*

18 (i) *the President;*

19 (ii) *the Committee on the Judiciary of*
20 *the Senate;*

21 (iii) *the Committee on the Judiciary of*
22 *the House of Representatives;*

23 (iv) *the Committee on Health, Edu-*
24 *cation, Labor, and Pensions of the Senate;*
25 *and*

1 (v) *the Committee on Education and*
2 *the Workforce of the House of Representa-*
3 *tives.*

4 (C) *DISSEMINATION.*—*The Secretary shall*
5 *make the findings of the evaluation widely avail-*
6 *able to educators, the business community, and*
7 *the public.*

8 (4) *RULE OF CONSTRUCTION.*—*Nothing in this*
9 *subsection may be construed to permit the Secretary*
10 *of Education or any other Federal official to approve*
11 *the content or academic achievement standards of a*
12 *State.*

13 (e) *AMERICAN DREAM ACCOUNTS.*—

14 (1) *DEFINITIONS.*—*In this subsection:*

15 (A) *AMERICAN DREAM ACCOUNT.*—*The term*
16 *“American Dream Account” means a personal*
17 *online account for low-income students that mon-*
18 *itors higher education readiness and includes a*
19 *college savings account.*

20 (B) *APPROPRIATE COMMITTEES OF CON-*
21 *GRESS.*—*The term “appropriate committees of*
22 *Congress” means—*

23 (i) *the Committee on Health, Edu-*
24 *cation, Labor, and Pensions of the Senate;*

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1 (ii) the Committee on Appropriations
2 of the Senate;

3 (iii) the Committee on Finance of the
4 Senate;

5 (iv) the Committee on Education and
6 the Workforce of the House of Representa-
7 tives;

8 (v) the Committee on Appropriations
9 of the House of Representatives;

10 (vi) the Committee on Ways and
11 Means of the House of Representatives; and

12 (vii) any other committee of the Senate
13 or House of Representatives that the Sec-
14 retary determines appropriate.

15 (C) COLLEGE SAVINGS ACCOUNT.—The term
16 “college savings account” means a savings ac-
17 count that—

18 (i) provides some tax-preferred accu-
19 mulation;

20 (ii) is widely available (such as Quali-
21 fied Tuition Programs under section 529 of
22 the Internal Revenue Code of 1986 or Cover-
23 dell Education Savings Accounts under sec-
24 tion 530 of the Internal Revenue Code of
25 1986); and

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1 (iii) contains funds that may be used
2 only for the costs associated with attending
3 an institution of higher education, includ-
4 ing—

5 (I) tuition and fees;

6 (II) room and board;

7 (III) textbooks;

8 (IV) supplies and equipment; and

9 (V) internet access.

10 (D) *DUAL ENROLLMENT PROGRAM*.—The
11 term “dual enrollment program” means an aca-
12 demic program through which a secondary school
13 student is able simultaneously to earn credit to-
14 ward a secondary school diploma and a postsec-
15 ondary degree or credential.

16 (E) *ELIGIBLE ENTITY*.—The term “eligible
17 entity” means—

18 (i) a State educational agency;

19 (ii) a local educational agency;

20 (iii) a charter school or charter man-
21 agement organization;

22 (iv) an institution of higher education;

23 (v) a nonprofit organization;

24 (vi) an entity with demonstrated expe-
25 rience in educational savings or in assisting

1 *low-income students to prepare for, and at-*
2 *tend, an institution of higher education; or*
3 *(vii) a consortium of 2 or more of the*
4 *entities described in clause (i) through (vi).*

5 *(F) ESEA DEFINITIONS.—The terms “local*
6 *educational agency”, “parent”, and “State edu-*
7 *cational agency” have the meanings given the*
8 *terms in section 9101 of the Elementary and*
9 *Secondary Education Act of 1965 (20 U.S.C.*
10 *7801) and the term “charter school” has the*
11 *meaning given the term in section 5210 of such*
12 *Act.*

13 *(G) INSTITUTION OF HIGHER EDUCATION.—*
14 *The term “institution of higher education” has*
15 *the meaning given the term in section 101(a) of*
16 *the Higher Education Act of 1965 (20 U.S.C.*
17 *1001(a)).*

18 *(H) LOW-INCOME STUDENT.—The term*
19 *“low-income student” means a student who is el-*
20 *igible to receive a free or reduced price lunch*
21 *under the Richard B. Russell National School*
22 *Lunch Act (42 U.S.C. 1751 et seq.).*

23 *(2) GRANT PROGRAM.—*

24 *(A) PROGRAM AUTHORIZED.—The Sec-*
25 *retary of Education is authorized to award*

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1 *grants, on a competitive basis, to eligible entities*
2 *to enable such eligible entities to establish and*
3 *administer American Dream Accounts for a*
4 *group of low-income students.*

5 *(B) RESERVATION.—From the amount*
6 *made available each fiscal year to carry out this*
7 *section under section 286(w)(6) of the Immigra-*
8 *tion and Nationality Act, the Secretary of Edu-*
9 *cation shall reserve not more than 5 percent of*
10 *such amount to carry out the evaluation activi-*
11 *ties described in paragraph (5)(A).*

12 *(C) DURATION.—A grant awarded under*
13 *this subsection shall be for a period of not more*
14 *than 3 years. The Secretary of Education may*
15 *extend such grant for an additional 2-year pe-*
16 *riod if the Secretary of Education determines*
17 *that the eligible entity has demonstrated signifi-*
18 *cant progress, based on the factors described in*
19 *paragraph (3)(B)(xi).*

20 *(3) APPLICATIONS; PRIORITY.—*

21 *(A) IN GENERAL.—Each eligible entity de-*
22 *siring a grant under this subsection shall submit*
23 *an application to the Secretary of Education at*
24 *such time, in such manner, and containing such*

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1 *information as the Secretary of Education may*
2 *require.*

3 *(B) CONTENTS.—The application described*
4 *in subparagraph (A) shall include—*

5 *(i) a description of the characteristics*
6 *of a group of not less than 30 low-income*
7 *public school students who—*

8 *(I) are, at the time of the applica-*
9 *tion, attending a grade not higher than*
10 *grade 9; and*

11 *(II) will, under the grant, receive*
12 *an American Dream Account;*

13 *(ii) a description of how the eligible*
14 *entity will engage, and provide support*
15 *(such as tutoring and mentoring for stu-*
16 *dents, and training for teachers and other*
17 *stakeholders) either online or in person,*
18 *to—*

19 *(I) the students in the group de-*
20 *scribed in clause (i);*

21 *(II) the family members and*
22 *teachers of such students; and*

23 *(III) other stakeholders such as*
24 *school administrators and school coun-*
25 *selors;*

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1 (iii) an identification of partners who
2 will assist the eligible entity in establishing
3 and sustaining American Dream Accounts;

4 (iv) a description of what experience
5 the eligible entity or the eligible entity's
6 partners have in managing college savings
7 accounts, preparing low-income students for
8 postsecondary education, managing online
9 systems, and teaching financial literacy;

10 (v) a description of how the eligible en-
11 tity will help increase the value of the col-
12 lege savings account portion of each Amer-
13 ican Dream Account, such as by providing
14 matching funds or incentives for academic
15 achievement;

16 (vi) a description of how the eligible
17 entity will notify each participating student
18 in the group described in subparagraph (A),
19 on a semiannual basis, of the current bal-
20 ance and status of the student's college sav-
21 ings account portion of the student's Amer-
22 ican Dream Account;

23 (vii) a plan that describes how the eli-
24 gible entity will monitor participating stu-
25 dents in the group described in clause (i) to

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1 *ensure that each student's American Dream*
2 *Account will be maintained if a student in*
3 *such group changes schools before grad-*
4 *uating from secondary school;*

5 *(viii) a plan that describes how the*
6 *American Dream Accounts will be managed*
7 *for not less than 1 year after a majority of*
8 *the students in the group described in clause*
9 *(i) graduate from secondary school;*

10 *(ix) a description of how the eligible*
11 *entity will encourage students in the group*
12 *described in clause (i) who fail to graduate*
13 *from secondary school to continue their edu-*
14 *cation;*

15 *(x) a description of how the eligible en-*
16 *tity will evaluate the grant program, in-*
17 *cluding by collecting, as applicable, data*
18 *about the students in the group described in*
19 *clause (i) during the grant period, and, if*
20 *sufficient grant funds are available, after*
21 *the grant period, including*

22 *(I) attendance rates;*

23 *(II) progress reports;*

24 *(III) grades and course selections;*

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1 (IV) *the student graduation rate*
2 *(as defined in section 1111*
3 *(b)(2)(C)(vi) of the Elementary and*
4 *Secondary Education Act of 1965 (20*
5 *U.S.C. 6311(b)(2)(C)(vi))*);

6 (V) *rates of student completion of*
7 *the Free Application for Federal Stu-*
8 *dent Aid described in section 483 of the*
9 *Higher Education Act of 1965 (20*
10 *U.S.C. 1090)*;

11 (VI) *rates of enrollment in an in-*
12 *stitution of higher education; and*

13 (VII) *rates of completion at an*
14 *institution of higher education;*

15 (xi) *a description of what will happen*
16 *to the funds in the college savings account*
17 *portion of the American Dream Accounts*
18 *that are dedicated to participating students*
19 *described in clause (i) who have not matric-*
20 *ulated at an institution of higher education*
21 *at the time of the conclusion of the period*
22 *of American Dream Account management*
23 *described in clause (viii)*;

24 (xii) *a description of how the eligible*
25 *entity will ensure that funds in the college*

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1 *savings account portion of the American*
2 *Dream Accounts will not make families in-*
3 *eligible for public assistance; and*

4 *(xiii) a description of how the eligible*
5 *entity will ensure that participating stu-*
6 *dents described in clause (i) will have access*
7 *to the Internet;*

8 *(C) PRIORITY.—In awarding grants under*
9 *this subsection, the Secretary of Education shall*
10 *give priority to applications from eligible enti-*
11 *ties that—*

12 *(i) are described in paragraph*
13 *(1)(E)(vii);*

14 *(ii) serve the largest number of low-in-*
15 *come students;*

16 *(iii) emphasize preparing students to*
17 *pursue careers in science, technology, engi-*
18 *neering, or mathematics; or*

19 *(iv) in the case of an eligible entity de-*
20 *scribed in clause (i) or (ii) of paragraph*
21 *(1)(E), provide opportunities for partici-*
22 *parting students described in clause (i) to*
23 *participate in a dual enrollment program*
24 *at no cost to the student.*

25 *(4) AUTHORIZED ACTIVITIES.—*

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1 (A) *IN GENERAL.*—*An eligible entity that*
2 *receives a grant under this subsection shall use*
3 *such grant funds to establish an American*
4 *Dream Account for each participating student*
5 *described in paragraph (3)(B)(i), which will be*
6 *used to—*

7 (i) *open a college savings account for*
8 *such student;*

9 (ii) *monitor the progress of such stu-*
10 *dent online, which—*

11 (I) *shall include monitoring stu-*
12 *dent data relating to—*

13 (aa) *grades and course selec-*
14 *tions;*

15 (bb) *progress reports; and*

16 (cc) *attendance and discipli-*
17 *nary records; and*

18 (II) *may also include monitoring*
19 *student data relating to a broad range*
20 *of information, provided by teachers*
21 *and family members, related to postsec-*
22 *ondary education readiness, access,*
23 *and completion;*

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1 (iii) provide opportunities for such stu-
2 dents, either online or in person, to learn
3 about financial literacy, including by—

4 (I) assisting such students in fi-
5 nancial planning for enrollment in an
6 institution of higher education; and

7 (II) assisting such students in
8 identifying and applying for financial
9 aid (such as loans, grants, and scholar-
10 ships) for an institution of higher edu-
11 cation;

12 (iv) provide opportunities for such stu-
13 dents, either online or in person, to learn
14 about preparing for enrollment in an insti-
15 tution of higher education, including by
16 providing instruction to students about—

17 (I) choosing the appropriate
18 courses to prepare for postsecondary
19 education;

20 (II) applying to an institution of
21 higher education;

22 (III) building a student portfolio,
23 which may be used when applying to
24 an institution of higher education;

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1 (IV) selecting an institution of
2 higher education;

3 (V) choosing a major for the stu-
4 dent's postsecondary program of edu-
5 cation or a career path, including spe-
6 cific instruction on pursuing science,
7 technology, engineering, and mathe-
8 matics majors; and

9 (VI) adapting to life at an insti-
10 tution of higher education; and

11 (v) provide opportunities for such stu-
12 dents, either online or in person, to identify
13 skills or interests, including career interests.

14 (B) ACCESS TO AMERICAN DREAM AC-
15 COUNT.—

16 (i) IN GENERAL.—Subject to clause
17 (iii) and (iv), and in accordance with ap-
18 plicable Federal laws and regulations relat-
19 ing to privacy of information and the pri-
20 vacy of children, an eligible entity that re-
21 ceives a grant under this subsection shall
22 allow vested stakeholders described in clause
23 (ii), to have secure access, through the Inter-
24 net, to an American Dream Account.

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1 (ii) *VESTED STAKEHOLDERS.*—*The*
2 *vested stakeholders that an eligible entity*
3 *shall permit to access an American Dream*
4 *Account are individuals (such as the stu-*
5 *dent’s teachers, school counselors, counselors*
6 *at an institution of higher education, school*
7 *administrators, or other individuals) that*
8 *are designated, in accordance with the*
9 *Family Educational Rights and Privacy*
10 *Act of 1974 (20 U.S.C. 1232g), by the par-*
11 *ent of a participating student in whose*
12 *name such American Dream Account is*
13 *held, as having permission to access the ac-*
14 *count. A student’s parent may withdraw*
15 *such designation from an individual at any*
16 *time.*

17 (iii) *EXCEPTION FOR COLLEGE SAV-*
18 *INGS ACCOUNT.*—*An eligible entity that re-*
19 *ceives a grant under this subsection shall*
20 *not be required to give vested stakeholders*
21 *described in clause (ii), access to the college*
22 *savings account portion of a student’s*
23 *American Dream Account.*

24 (iv) *ADULT STUDENTS.*—*Notwith-*
25 *standing clause (i) through (iii), if a par-*

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1 *ticipating student is age 18 or older, an eli-*
2 *gible entity that receives a grant under this*
3 *subsection shall not provide access to such*
4 *participating student's American Dream*
5 *Account without the student's consent, in*
6 *accordance with the Family Educational*
7 *Rights and Privacy Act of 1974 (20 U.S.C.*
8 *1232g).*

9 *(v) INPUT OF STUDENT INFORMA-*
10 *TION.—Student data collected pursuant to*
11 *subparagraph (A)(ii)(I) may only be en-*
12 *tered into an American Dream Account by*
13 *a school administrator or such administra-*
14 *tor's designee.*

15 *(C) PROHIBITION ON USE OF STUDENT IN-*
16 *FORMATION.—An eligible entity that receives a*
17 *grant under this subsection may not use any stu-*
18 *dent-level information or data for the purpose of*
19 *soliciting, advertising, or marketing any finan-*
20 *cial or nonfinancial consumer product or service*
21 *that is offered by such eligible entity, or on be-*
22 *half of any other person.*

23 *(D) LIMITATION ON THE USE OF GRANT*
24 *FUNDS.—An eligible entity shall not use more*
25 *than 25 percent of the grant funds provided*

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1 *under this subsection to provide the initial de-*
2 *posit into a college savings account portion of a*
3 *student's American Dream Account.*

4 (5) *REPORTS AND EVALUATIONS.—*

5 (A) *IN GENERAL.—Not later than 1 year*
6 *after the Secretary of Education has disbursed*
7 *grants under this subsection, and annually there-*
8 *after, the Secretary of Education shall prepare*
9 *and submit a report to the appropriate commit-*
10 *tees of Congress that includes an evaluation of*
11 *the effectiveness of the grant program established*
12 *under this subsection.*

13 (B) *CONTENTS.—The report described in*
14 *subparagraph (A) shall—*

15 (i) *list the grants that have been*
16 *awarded under paragraph (2)(A);*

17 (ii) *include the number of students who*
18 *have an American Dream Account estab-*
19 *lished through a grant awarded under para-*
20 *graph (2)(A);*

21 (iii) *provide data (including the inter-*
22 *est accrued on college savings accounts that*
23 *are part of an American Dream Account)*
24 *in the aggregate, regarding students who*
25 *have an American Dream Account estab-*

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1 *lished through a grant awarded under para-*
2 *graph (2)(A), as compared to similarly sit-*
3 *uated students who do not have an Amer-*
4 *ican Dream Account;*

5 *(iv) identify best practices developed by*
6 *the eligible entities receiving grants under*
7 *this subsection;*

8 *(v) identify any issues related to stu-*
9 *dent privacy and stakeholder accessibility to*
10 *American Dream Accounts;*

11 *(vi) provide feedback from partici-*
12 *parting students and the parents of such stu-*
13 *dents about the grant program, including—*

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 STUDENT*
25 *FINANCIAL AID.—Notwithstanding any other provi-*

1 *sion of law, any funds that are in the college savings*
2 *account portion of a student’s American Dream Ac-*
3 *count shall not affect such student’s eligibility to re-*
4 *ceive Federal student financial aid, including any*
5 *Federal student financial aid under the Higher Edu-*
6 *cation Act of 1965 (20 U.S.C. 1001), and shall not*
7 *be considered in determining the amount of any such*
8 *Federal student aid.*

9 *(f) CONFORMING AMENDMENT.—Section 480(j) of the*
10 *Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is*
11 *amended by adding at the end the following:*

12 *“(5) Notwithstanding paragraph (1), amounts*
13 *made available under the college savings account por-*
14 *tion of an American Dream Account under section*
15 *4105(e)(4) of the Illegal Immigration Reform and Im-*
16 *migrant Responsibility Act of 1996 shall not be treat-*
17 *ed as estimated financial assistance for purposes of*
18 *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: “.*

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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*”; and
6 (4) *by adding at the end the following:*

7 “(d) *H-1B AND L VISA FEES.—In addition to the fees*
8 *authorized under subsection (a), the Secretary of Homeland*
9 *Security shall collect, from each employer (except for non-*
10 *profit research institutions and nonprofit educational insti-*
11 *tutions) filing a petition to hire nonimmigrants described*
12 *in subparagraph (H)(i)(B) or (L) of section 101(a)(15), a*
13 *fee in an amount equal to—*

14 “(1) *\$1,250 for each such petition filed by any*
15 *employer with not more than 25 full-time equivalent*
16 *employees in the United States; and*

17 “(2) *\$2,500 for each such petition filed by any*
18 *employer with more than 25 such employees.”.*

19 ***Subtitle B—H-1B Visa Fraud and***
20 ***Abuse Protections***

21 ***CHAPTER 1—H-1B EMPLOYER***

22 ***APPLICATION REQUIREMENTS***

23 ***SEC. 4211. MODIFICATION OF APPLICATION REQUIRE-***
24 ***MENTS.***

25 (a) *GENERAL APPLICATION REQUIREMENTS.—*

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1 (1) *WAGE RATES.*—

2 (A) *IN GENERAL.*—Section 212(n)(1)(A) (8
3 *U.S.C. 1182(n)(1)(A)*) is amended—

4 (i) in clause (i)—

5 (I) in the matter preceding sub-
6 clause (I), by inserting “if the em-
7 ployer is not an H-1B-dependent em-
8 ployer,” before “is offering”;

9 (II) in subclause (I), by striking
10 “question, or” and inserting “question;
11 or”;

12 (III) in subclause (II), by striking
13 “employment,” and inserting “employ-
14 ment;” and

15 (IV) in the undesignated material
16 following subclause (II), by striking
17 “application, and” and inserting “ap-
18 plication;”; and

19 (ii) by striking clause (ii) and insert-
20 ing the following:

21 “(ii) if the employer is an H-1B-dependent
22 employer, is offering and will offer to H-1B
23 nonimmigrants, during the period of authorized
24 employment for each H-1B nonimmigrant,

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1 wages that are not less than the level 2 wages set
2 out in subsection (p); and

3 “(iii) will provide working conditions for
4 H-1B nonimmigrants that will not adversely af-
5 fect the working conditions of other workers simi-
6 larly employed.”.

7 (2) *STRENGTHENING THE PREVAILING WAGE*
8 *SYSTEM.*—

9 (A) *IN GENERAL.*—Section 212(p) (8 U.S.C.
10 1182(p)) is amended to read as follows:

11 “(p) *COMPUTATION OF PREVAILING WAGE LEVEL.*—

12 “(1) *IN GENERAL.*—

13 “(A) *SURVEYS.*—For employers of non-
14 immigrants admitted pursuant to section
15 101(a)(15)(H)(i)(b), the Secretary of Labor shall
16 make available to employers a governmental sur-
17 vey to determine the prevailing wage for each oc-
18 cupational classification by metropolitan statis-
19 tical area in the United States. Such survey, or
20 other survey approved by the Secretary of Labor,
21 shall provide 3 levels of wages commensurate
22 with experience, education, and level of super-
23 vision. Such wage levels shall be determined as
24 follows:

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1 “(i) *The first level shall be the mean of*
2 *the lowest two-thirds of wages surveyed, but*
3 *in no case less than 80 percent of the mean*
4 *of the wages surveyed.*

5 “(ii) *The second level shall be the mean*
6 *of wages surveyed.*

7 “(iii) *The third level shall be the mean*
8 *of the highest two-thirds of wages surveyed.*

9 “(B) *EDUCATIONAL, NONPROFIT, RE-*
10 *SEARCH, AND GOVERNMENTAL ENTITIES.—In*
11 *computing the prevailing wage level for an occu-*
12 *pational classification in an area of employment*
13 *for purposes of section 203(b)(1)(D) and sub-*
14 *sections (a)(5)(A), (n)(1)(A)(i)(II), and*
15 *(t)(1)(A)(i)(II) of this section in the case of an*
16 *employee of—*

17 “(i) *an institution of higher education,*
18 *or a related or affiliated nonprofit entity; or*

19 “(ii) *a nonprofit research organization*
20 *or a governmental research organization;*

21 *the prevailing wage level shall only take into ac-*
22 *count employees at such institutions and organi-*
23 *zations in the area of employment.*

24 “(2) *PAYMENT OF PREVAILING WAGE.—The pre-*
25 *vailing wage level required to be paid pursuant to*

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1 *section 203(b)(1)(D) and subsections (a)(5)(A),*
2 *(n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of this section*
3 *shall be 100 percent of the wage level determined pur-*
4 *suant to those sections.*

5 *“(3) PROFESSIONAL ATHLETE.—With respect to*
6 *a professional athlete (as defined in subsection*
7 *(a)(5)(A)(iii)(II)) when the job opportunity is covered*
8 *by professional sports league rules or regulations, the*
9 *wage set forth in those rules or regulations shall be*
10 *considered as not adversely affecting the wages of*
11 *United States workers similarly employed and shall*
12 *be considered the prevailing wage.*

13 *“(4) WAGES FOR H-2B EMPLOYEES.—*

14 *“(A) IN GENERAL.—The wages paid to H-*
15 *2B nonimmigrants employed by the employer*
16 *will be the greater of—*

17 *“(i) the actual wage level paid by the*
18 *employer to other employees with similar*
19 *experience and qualifications for such posi-*
20 *tion; or*

21 *“(ii) the prevailing wage level for the*
22 *occupational classification of the position in*
23 *the geographic area of the employment,*
24 *based on the best information available as*
25 *of the time of filing the application.*

1 “(B) *BEST INFORMATION AVAILABLE.*—*In*
2 *subparagraph (A), the term ‘best information*
3 *available’, with respect to determining the pre-*
4 *vailing wage for a position, means—*

5 “(i) *a controlling collective bargaining*
6 *agreement or Federal contract wage, if ap-*
7 *plicable;*

8 “(ii) *if there is no applicable wage*
9 *under clause (i), the wage level commensu-*
10 *rate with the experience, training, and su-*
11 *per vision required for the job based on Bu-*
12 *reau of Labor Statistics data; or*

13 “(iii) *if the data referred to in clause*
14 *(ii) is not available, a legitimate and recent*
15 *private survey of the wages paid for such*
16 *positions in the metropolitan statistical*
17 *area.”.*

18 (3) *WAGES FOR EDUCATIONAL, NONPROFIT, RE-*
19 *SEARCH, AND GOVERNMENTAL ENTITIES.*—*Section*
20 *212 (8 U.S.C. 1182), as amended by sections 2312*
21 *and 2313, is further amended by adding at the end*
22 *the following:*

23 “(x) *DETERMINATION OF PREVAILING WAGE.*—*In the*
24 *case of a nonprofit institution of higher education (as de-*
25 *fin ed in section 101(a) of the Higher Education Act of 1965*

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1 (20 U.S.C. 1001(a)), a related or affiliated nonprofit enti-
2 ty, a nonprofit research organization, or a governmental
3 research organization, the Secretary of Labor shall deter-
4 mine such wage levels as follows:

5 “(1) If the Secretary of Labor uses, or makes
6 available to employers, a governmental survey to de-
7 termine the prevailing wage, such survey shall pro-
8 vide at least 4 levels of wages commensurate with ex-
9 perience, education, and the level of supervision.

10 “(2) If an existing government survey has only
11 2 levels, 2 intermediate levels may be created by di-
12 viding by 3, the difference between the 2 levels offered,
13 adding the quotient thus obtained to the first level
14 and subtracting that quotient from the second level.

15 “(3) For institutions of higher education, only
16 teaching positions and research positions may be paid
17 using this special educational wage level.

18 “(4) In computing the prevailing wage level for
19 an occupational classification in an area of employ-
20 ment for purposes of subsections (a)(5)(A),
21 (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) and section
22 203(b)(1)(D) for an employee of an institution of
23 higher education, or a related or affiliated nonprofit
24 entity or a nonprofit research organization or a gov-
25 ernmental research organization, the prevailing wage

1 *level shall only take into account employees at such*
2 *institutions and organizations in the area of employ-*
3 *ment.”.*

4 **(b) INTERNET POSTING REQUIREMENT.**—*Section*
5 *212(n)(1)(C) (8 U.S.C. 1182(n)(1)(C)) is amended—*

6 *(1) by redesignating clause (ii) as subclause (II);*

7 *(2) by striking “(i) has provided” and inserting*
8 *the following:*

9 *“(i)(I) has provided”;*

10 *(3) by striking “sought, or” and inserting*
11 *“sought; or”; and*

12 *(4) by inserting before clause (ii), as redesign-*
13 *ated by paragraph (2), the following:*

14 *“(i) has advertised on the Internet website*
15 *maintained by the Secretary of Labor for the*
16 *purpose of such advertising, for at least 30 cal-*
17 *endar days, a detailed description of each posi-*
18 *tion for which a nonimmigrant is sought that*
19 *includes a description of—*

20 *“(I) the wage ranges and other terms*
21 *and conditions of employment;*

22 *“(II) the minimum education, train-*
23 *ing, experience, and other requirements for*
24 *the position;*

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1 “(III) the process for applying for the
2 position;

3 “(IV) the title and description of the
4 position, including the location where the
5 work will be performed; and

6 “(V) the name, city, and zip code of
7 the employer; and”.

8 (c) *APPLICATION OF REQUIREMENTS TO ALL EMPLOY-*
9 *ERS.*—

10 (1) *NONDISPLACEMENT.*—Section 212(n)(1)(E)
11 (8 U.S.C. 1182(n)(1)(E)) is amended to read as fol-
12 lows:

13 “(E)(i)(I) In the case of an application filed by
14 an employer that is an H-1B skilled worker depend-
15 ent employer, and is not an H-1B dependent em-
16 ployer, the employer did not displace and will not
17 displace a United States worker employed by the em-
18 ployer during the period beginning 90 days before the
19 date on which a visa petition supported by the appli-
20 cation is filed and ending 90 days after such filing.

21 “(II) An employer that is not an H-1B skilled
22 worker dependent employer shall not be subject to sub-
23 clause (I) unless—

24 “(aa) the employer is filing the H-1B peti-
25 tion with the intent or purpose of displacing a

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1 *specific United States worker from the position*
2 *to be occupied by the beneficiary of the petition;*
3 *or*

4 “(bb) workers are displaced who—

5 “(AA) provide services, in whole or in
6 part, at 1 or more worksites owned, oper-
7 ated, or controlled by a Federal, State, or
8 local government entity that directs and
9 controls the work of the H-1B worker; or

10 “(BB) are employed as public school
11 kindergarten, elementary, middle school, or
12 secondary school teachers.

13 “(ii)(I) In the case of an application filed by an
14 H-1B-dependent employer, the employer did not dis-
15 place and will not displace a United States worker
16 employed by the employer within the period begin-
17 ning 180 days before the date on which a visa peti-
18 tion supported by the application is filed and ending
19 180 days after such filing.

20 “(II) An application described in this clause is
21 an application filed on or after the date final regula-
22 tions are first promulgated to carry out this subpara-
23 graph, and before by an H-1B-dependent employer
24 (as defined in paragraph (3)) or by an employer that
25 has been found, on or after the date of the enactment

1 *of the American Competitiveness and Workforce Im-*
2 *provement Act of 1998, under paragraph (2)(C) or*
3 *(5) to have committed a willful failure or misrepre-*
4 *sentation during the 5-year period preceding the fil-*
5 *ing of the application.*

6 “(iii) In this subparagraph, the term ‘job zone’
7 *means a zone assigned to an occupation by—*

8 “(I) *the Occupational Information Network*
9 *Database (O*NET) on the date of the enactment*
10 *of this Act; or*

11 “(II) *such database or a similar successor*
12 *database, as designated by the Secretary of*
13 *Labor, after the date of the enactment of Border*
14 *Security, Economic Opportunity, and Immigra-*
15 *tion Modernization Act.”.*

16 (2) *RECRUITMENT.—Section 212(n)(1)(G) (8*
17 *U.S.C. 1182(n)(1)(G)) is amended to read as follows:*

18 “(G) *An employer, prior to filing the applica-*
19 *tion—*

20 “(i) *has taken good faith steps to recruit*
21 *United States workers for the occupational clas-*
22 *sification for which the nonimmigrant or non-*
23 *immigrants is or are sought, using procedures*
24 *that meet industry-wide standards and offering*
25 *compensation that is at least as great as that re-*

1 *quired to be offered to H–1B nonimmigrants*
2 *under subparagraph (A);*

3 *“(ii) has advertised the job on an Internet*
4 *website maintained by the Secretary of Labor for*
5 *the purpose of such advertising; and*

6 *“(iii) if the employer is an H–1B skilled*
7 *worker dependent employer, has offered the job to*
8 *any United States worker who applies and is*
9 *equally or better qualified for the job for which*
10 *the nonimmigrant or nonimmigrants is or are*
11 *sought.”.*

12 *(d) OUTPLACEMENT.—Section 212(n)(1)(F) (8 U.S.C.*
13 *1182(n)(1)(F)) is amended to read as follows:*

14 *“(F)(i) An H–1B-dependent employer may*
15 *not place, outsource, lease, or otherwise contract*
16 *for the services or placement of an H–1B non-*
17 *immigrant employee.*

18 *“(ii) An employer that is not an H–1B-de-*
19 *pendent employer and not described in para-*
20 *graph (3)(A)(i) may not place, outsource, lease,*
21 *or otherwise contract for the services or place-*
22 *ment of an H–1B nonimmigrant employee un-*
23 *less the employer pays a fee of \$500 per*
24 *outplaced worker.*

1 “(iii) A fee collected under clause (ii) shall
2 be deposited in the Comprehensive Immigration
3 Reform Trust Fund established under section 6
4 of the Border Security, Economic Opportunity,
5 and Immigration Modernization Act.

6 “(iv) An H-1B dependent employer shall be
7 exempt from the prohibition on outplacement
8 under clause (i) if the employer is a nonprofit
9 institution of higher education, a nonprofit re-
10 search organization, or primarily a health care
11 business and is petitioning for a physician, a
12 nurse, or a physical therapist or a substantially
13 equivalent health care occupation. Such employer
14 shall be subject to the fee set forth in clause
15 (ii).”.

16 (e) H-1B-DEPENDENT EMPLOYER DEFINED.—Section
17 212(n)(3) (8 U.S.C. 1182(n)(3)) is amended to read as fol-
18 lows:

19 “(3)(A) The term ‘H-1B-dependent employer’ means
20 an employer that—

21 “(i) in the case of an employer that has 25 or
22 fewer full-time equivalent employees who are em-
23 ployed in the United States, employs more than 7 H-
24 1B nonimmigrants;

1 “(ii) in the case of an employer that has at least
2 26 but not more than 50 full-time equivalent employ-
3 ees who are employed in the United States, employs
4 more than 12 H-1B nonimmigrants; or

5 “(iii) in the case of an employer that has at least
6 51 full-time equivalent employees who are employed
7 in the United States, employs H-1B nonimmigrants
8 in a number that is equal to at least 15 percent of
9 the number of such full-time equivalent employees.

10 “(B) In determining the number of employees who are
11 H-1B nonimmigrants under subparagraph (A)(ii), an in-
12 tending immigrant employee shall not count toward such
13 number.”.

14 (f) H-1B SKILLED WORKER DEPENDENT DEFINED.—
15 Section 212(n)(3) (8 U.S.C. 1182(n)(3)) is amended—

16 (1) by redesignating subparagraph (B) as sub-
17 paragraph (D); and

18 (2) by inserting after subparagraph (A) the fol-
19 lowing:

20 “(B)(i) For purposes of this subsection, an ‘H-1B
21 skilled worker dependent employer’ means an employer who
22 employs H-1B nonimmigrants in the United States in a
23 number that in total is equal to at least 15 percent of the
24 number of its full-time equivalent employees in the United
25 States employed in occupations contained within Occupa-

1 *tional Information Network Database (O*NET) Job Zone*
2 *4 and Job Zone 5.*

3 “(ii) *An H–1B nonimmigrant who is an intending*
4 *immigrant 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 3504(a),*
8 *is further amended by adding at the end the following:*

9 “(54)(A) *The term ‘intending immigrant’ means,*
10 *with respect to the number of aliens employed by an*
11 *employer, an alien who intends to work and reside*
12 *permanently in the United States, as evidenced by—*

13 “(i) *a pending or approved application for*
14 *a labor certification filed for such alien by a cov-*
15 *ered employer; or*

16 “(ii) *a pending or approved immigrant sta-*
17 *tus petition filed for such alien by a covered em-*
18 *ployer.*

19 “(B) *In this paragraph:*

20 “(i) *The term ‘covered employer’ means an*
21 *employer that has filed immigrant status peti-*
22 *tions for not less than 90 percent of current em-*
23 *ployees who were the beneficiaries of applications*
24 *for labor certification that were approved during*
25 *the 1-year period ending 6 months before the fil-*

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1 *ing of an application or petition for which the*
2 *number of intending immigrants is relevant.*

3 *“(ii) The term ‘immigrant status petition’*
4 *means a petition filed under paragraph (1), (2),*
5 *or (3) of section 203(b).*

6 *“(iii) The term ‘labor certification’ means*
7 *an employment certification under section*
8 *212(a)(5)(A).*

9 *“(C) Notwithstanding any other provision of*
10 *law—*

11 *“(i) for all calculations under this Act, of*
12 *the number of aliens admitted pursuant to sub-*
13 *paragraph (H)(i)(b) or (L) of paragraph (15),*
14 *an intending immigrant shall be counted as an*
15 *alien lawfully admitted for permanent residence*
16 *and shall not be counted as an employee admit-*
17 *ted pursuant to such a subparagraph; and*

18 *“(ii) for all determinations of the number of*
19 *employees or United States workers employed by*
20 *an employer, all of the employees in any group*
21 *treated as a single employer under subsection*
22 *(b), (c), (m), or (o) of section 414 of the Internal*
23 *Revenue Code of 1986 shall be counted.”.*

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1 **SEC. 4212. REQUIREMENTS FOR ADMISSION OF NON-**
2 **IMMIGRANT NURSES IN HEALTH PROFES-**
3 **SIONAL SHORTAGE AREAS.**

4 (a) *EXTENSION OF PERIOD OF AUTHORIZED ADMIS-*
5 *SION.*—Section 212(m)(3) (8 U.S.C. 1182(m)(3)) is amend-
6 *ed to read as follows:*

7 “(3) *The initial period of authorized admission as a*
8 *nonimmigrant under section 101(a)(15)(H)(i)(c) shall be 3*
9 *years, and may be extended once for an additional 3-year*
10 *period.*”

11 (b) *NUMBER OF VISAS.*—Section 212(m)(4) (8 U.S.C.
12 1182(m)(4)) is amended by striking “500.” and inserting
13 “300.”

14 (c) *PORTABILITY.*—Section 214(n) (8 U.S.C. 1184(n)),
15 as amended by section 4103(b), is further amended by add-
16 *ing at the end the following:*

17 “(4)(A) *A nonimmigrant alien described in subpara-*
18 *graph (B) who was previously issued a visa or otherwise*
19 *provided nonimmigrant status under section*
20 *101(a)(15)(H)(i)(c) is authorized to accept new employ-*
21 *ment performing services as a registered nurse for a facility*
22 *described in section 212(m)(6) upon the filing by the pro-*
23 *spective employer of a new petition on behalf of such non-*
24 *immigrant as provided under subsection (c). Employment*
25 *authorization shall continue for such alien until the new*

1 *petition is adjudicated. If the new petition is denied, such*
2 *authorization shall cease.*

3 “(B) *A nonimmigrant alien described in this para-*
4 *graph is a nonimmigrant alien—*

5 “(i) *who has been lawfully admitted into the*
6 *United States;*

7 “(ii) *on whose behalf an employer has filed a*
8 *nonfrivolous petition for new employment before the*
9 *date of expiration of the period of stay authorized by*
10 *the Secretary of Homeland Security, except that, if a*
11 *nonimmigrant described in section*
12 *101(a)(15)(H)(i)(c) is terminated or laid off by the*
13 *nonimmigrant’s employer, or otherwise ceases employ-*
14 *ment with the employer, such petition for new em-*
15 *ployment shall be filed during the 60-day period be-*
16 *ginning on the date of such termination, lay off, or*
17 *cessation; and*

18 “(iii) *who, subsequent to such lawful admission,*
19 *has not been employed without authorization in the*
20 *United States before the filing of such petition.”.*

21 (d) *APPLICABILITY.—*

22 (1) *IN GENERAL.—Beginning on the commence-*
23 *ment date described in paragraph (2), the amend-*
24 *ments made by section 2 of the Nursing Relief for*
25 *Disadvantaged Areas Act of 1999 (Public Law 106–*

1 95; 113 Stat. 1313), and the amendments made by
2 this section, shall apply to classification petitions
3 filed for nonimmigrant status. This period shall be in
4 addition to the period described in section 2(e) of the
5 Nursing Relief for Disadvantaged Areas Act of 1999
6 (8 U.S.C. 1182 note).

7 (2) *COMMENCEMENT DATE.*—Not later than 60
8 days after the date of the enactment of this Act, the
9 Secretary shall determine whether regulations are nec-
10 essary to implement the amendments made by this
11 section. If the Secretary determines that no such regu-
12 lations are necessary, the commencement date de-
13 scribed in this paragraph shall be the date of such de-
14 termination. If the Secretary determines that regula-
15 tions are necessary to implement any amendment
16 made by this section, the commencement date de-
17 scribed in this paragraph shall be the date on which
18 such regulations (in final form) take effect.

19 **SEC. 4213. NEW APPLICATION REQUIREMENTS.**

20 Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended
21 by inserting after clause (iii) of subparagraph (G), as
22 amended by section 4211(c)(2), the following:

23 “(H)(i) The employer has not advertised any
24 available position specified in the application in an
25 advertisement that states or indicates that—

1 “(I) such position is only available to an
2 individual who is or will be an H-1B non-
3 immigrant or an alien participating in optional
4 practical training pursuant to section
5 101(a)(15)(F)(i); or

6 “(II) an individual who is or will be an H-
7 1B nonimmigrant or participant in such op-
8 tional practical training shall receive priority or
9 a preference in the hiring process for such posi-
10 tion.

11 “(ii) The employer has not solely recruited indi-
12 viduals who are or who will be H-1B nonimmigrants
13 or participants in optional practical training pursu-
14 ant to section 101(a)(15)(F)(i) to fill such position.

15 “(I)(i) If the employer (other than an edu-
16 cational or research employer) employs 50 or more
17 employees in the United States, the sum of the num-
18 ber of such employees who are H-1B nonimmigrants
19 plus the number of such employees who are non-
20 immigrants described in section 101(a)(15)(L) may
21 not exceed—

22 “(I) 75 percent of the total number of em-
23 ployees, for fiscal year 2015;

24 “(II) 65 percent of the total number of em-
25 ployees, for fiscal year 2016; and

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1 “(III) 50 percent of the total number of em-
2 ployees, for each fiscal year after fiscal year
3 2016.

4 “(ii) In this subparagraph:

5 “(I) The term ‘educational or research em-
6 ployer’ means an employer that is a nonprofit
7 institution of higher education or a nonprofit re-
8 search organization described in section
9 501(c)(3) of the Internal Revenue Code of 1986
10 and exempt from taxation under 501(a) of that
11 Code.

12 “(II) The term ‘H-1B nonimmigrant’
13 means an alien admitted as a nonimmigrant
14 pursuant to section 101(a)(15)(H)(i)(b).

15 “(III) The term ‘L nonimmigrant’ means
16 an alien admitted as a nonimmigrant pursuant
17 to section 101(a)(15)(L) to provide services to his
18 or her employer involving specialized knowledge.

19 “(iii) In determining the percentage of employees
20 of an employer that are H-1B nonimmigrants or L
21 nonimmigrants under clause (i), an intending immi-
22 grant employee shall not count toward such percent-
23 age.

24 “(J) The employer shall submit to the Secretary
25 of Homeland Security an annual report that includes

1 *the Internal Revenue Service Form W-2 Wage and*
2 *Tax Statement filed by the employer for each H-1B*
3 *nonimmigrant employed by the employer during the*
4 *previous year.”.*

5 **SEC. 4214. APPLICATION REVIEW REQUIREMENTS.**

6 (a) *TECHNICAL AMENDMENT.*—Section 212(n)(1) (8
7 *U.S.C. 1182(n)(1)), as amended by section 4213, is further*
8 *amended in the undesignated paragraph at the end, by*
9 *striking “The employer” and inserting the following:*

10 *“(K) The employer”.*

11 (b) *APPLICATION REVIEW REQUIREMENTS.*—Subpara-
12 *graph (K) of such section 212(n)(1), as designated by sub-*
13 *section (a), is amended—*

14 (1) *by inserting “and through the Department of*
15 *Labor’s website, without charge.” after “D.C.”;*

16 (2) *by striking “only for completeness” and in-*
17 *serting “for completeness and evidence of fraud or*
18 *misrepresentation of material fact,”;*

19 (3) *by striking “or obviously inaccurate” and in-*
20 *serting “, presents evidence of fraud or misrepresenta-*
21 *tion of material fact, or is obviously inaccurate”;*

22 (4) *by striking “within 7 days of the” and in-*
23 *serting “not later than 14 days after”; and*

24 (5) *by adding at the end the following: “If the*
25 *Secretary’s review of an application identifies evi-*

1 *dence of fraud or misrepresentation of material fact,*
2 *the Secretary may conduct an investigation and hear-*
3 *ing in accordance with paragraph (2).”.*

4 *(c) FILING OF PETITION FOR NONIMMIGRANT WORK-*
5 *ER.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended*
6 *by section 4213, is further amended by adding at the end*
7 *the following:*

8 *“(L) An I–129 Petition for Nonimmigrant*
9 *Worker (or similar successor form)—*

10 *“(i) may be filed by an employer with the*
11 *Secretary of Homeland Security prior to the*
12 *date the employer receives an approved certifi-*
13 *cation described in section 101(a)(15)(H)(i)(b)*
14 *from the Secretary of Labor; and*

15 *“(ii) may not be approved by the Secretary*
16 *of Homeland Security until the date such certifi-*
17 *cation is approved.”.*

18 **CHAPTER 2— INVESTIGATION AND DIS-**
19 **POSITION OF COMPLAINTS AGAINST**
20 **H–1B EMPLOYERS**

21 **SEC. 4221. GENERAL MODIFICATION OF PROCEDURES FOR**
22 **INVESTIGATION AND DISPOSITION.**

23 *Section 212(n) (8 U.S.C. 1182(n)) is amended—*
24 *(1) in paragraph (2)(A)—*

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1 (A) by striking “(A) Subject” and inserting
2 “(A)(i) Subject”;

3 (B) by inserting after the first sentence the
4 following: “Such process shall include publi-
5 cizing a dedicated toll-free number and publicly
6 available Internet website for the submission of
7 such complaints.”;

8 (C) by striking “12 months” and inserting
9 “24 months”;

10 (D) by striking the last sentence and insert-
11 ing the following: “The Secretary shall issue reg-
12 ulations requiring that employers that employ
13 H-1B nonimmigrants, other than nonprofit in-
14 stitutions of higher education and nonprofit re-
15 search organizations, through posting of notices
16 or other appropriate means, inform their em-
17 ployees of such toll-free number and Internet
18 website and of their right to file complaints pur-
19 suant to this paragraph.”; and

20 (E) by adding at the end the following:

21 “(i)(I) Upon the receipt of such a com-
22 plaint, the Secretary may initiate an investiga-
23 tion to determine if such a failure or misrepre-
24 sentation has occurred.

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1 “(II) *The Secretary may conduct voluntary*
2 *surveys of the degree to which employers comply*
3 *with the requirements of this subsection.*

4 “(III) *The Secretary shall—*

5 “(aa) *conduct annual compliance au-*
6 *ditions of each employer with more than 100*
7 *employees who work in the United States if*
8 *more than 15 percent of such employees are*
9 *H-1B nonimmigrants; and*

10 “(bb) *make available to the public an*
11 *executive summary or report describing the*
12 *general findings of the audits carried out*
13 *pursuant to this subclause.”; and*

14 (2) *by adding at the end the following new para-*
15 *graph:*

16 “(6) *REPORT REQUIRED.—Not later than 1 year*
17 *after the date of the enactment of the Border Security,*
18 *Economic Opportunity, and Immigration Moderniza-*
19 *tion Act, and every 5 years thereafter, the Inspector*
20 *General of the Department of Labor shall submit a re-*
21 *port regarding the Secretary’s enforcement of the re-*
22 *quirements of this section to the Committee on the Ju-*
23 *diiciary and the Committee on Health, Education,*
24 *Labor, and Pensions of the Senate and the Committee*

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1 *on the Judiciary and the Committee on Education*
2 *and the Workforce of the House of Representatives.”.*

3 **SEC. 4222. INVESTIGATION, WORKING CONDITIONS, AND**
4 **PENALTIES.**

5 *Subparagraph (C) of section 212(n)(2) (8 U.S.C.*
6 *1182(n)(2)) is amended—*

7 *(1) in clause (i)—*

8 *(A) in the matter preceding subclause (I)—*

9 *(i) by striking “a condition of para-*
10 *graph (1)(B), (1)(E), or (1)(F)” and insert-*
11 *ing “a condition under subparagraph (A),*
12 *(B), (C)(i), (E), (F), (G), (H), (I), or (J)*
13 *of paragraph (1)”;* *and*

14 *(ii) by striking “(1)(C)” and inserting*
15 *“(1)(C)(ii)”;*

16 *(B) in subclause (I)—*

17 *(i) by striking “\$1,000” and inserting*
18 *“\$2,000”;* *and*

19 *(ii) by striking “and” at the end;*

20 *(C) in subclause (II), by striking the period*
21 *at the end and inserting a semicolon and “and”;*

22 *and*

23 *(D) by adding at the end the following:*

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1 “(III) an employer that violates such subpara-
2 graph (A) shall be liable to any employee harmed by
3 such violations for lost wages and benefits.”; and

4 (2) in clause (ii)—

5 (A) in subclause (I)—

6 (i) by striking “may” and inserting
7 “shall”; and

8 (ii) by striking “\$5,000” and inserting
9 “\$10,000”;

10 (B) in subclause (II), by striking the period
11 at the end and inserting a semicolon and “and”;
12 and

13 (C) by adding at the end the following:

14 “(III) an employer that violates such subpara-
15 graph (A) shall be liable to any employee harmed by
16 such violations for lost wages and benefits.”;

17 (3) in clause (iii)—

18 (A) in the matter preceding subclause (I),
19 by striking “90 days” both places it appears and
20 inserting “180 days”;

21 (B) in subclause (I)—

22 (i) by striking “may” and inserting
23 “shall”; and

24 (ii) by striking “and” at the end;

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1 (C) in subclause (II), by striking the period
2 at the end and inserting a semicolon and “and”;
3 and

4 (D) by adding at the end the following:

5 “(III) an employer that violates subparagraph
6 (A) of such paragraph shall be liable to any employee
7 harmed by such violations for lost wages and bene-
8 fits.”;

9 (4) in clause (iv)—

10 (A) by inserting “to take, or threaten to
11 take, a personnel action, or” before “to intimi-
12 date”;

13 (B) by inserting “(I)” after “(iv)”; and

14 (C) by adding at the end the following:

15 “(II) An employer that violates this clause shall
16 be liable to any employee harmed by such violation
17 for lost wages and benefits.”; and

18 (5) in clause (vi)—

19 (A) by amending subclause (I) to read as
20 follows:

21 “(I) It is a violation of this clause for an em-
22 ployer who has filed an application under this sub-
23 section—

24 “(aa) to require an H-1B nonimmigrant to
25 pay a penalty for ceasing employment with the

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1 *employer prior to a date agreed to by the non-*
2 *immigrant and the employer (the Secretary shall*
3 *determine whether a required payment is a pen-*
4 *alty, and not liquidated damages, pursuant to*
5 *relevant State law); and*

6 *“(bb) to fail to offer to an H-1B non-*
7 *immigrant, during the nonimmigrant’s period of*
8 *authorized employment, on the same basis, and*
9 *in accordance with the same criteria, as the em-*
10 *ployer offers to similarly situated United States*
11 *workers, benefits and eligibility for benefits, in-*
12 *cluding—*

13 *“(AA) the opportunity to participate*
14 *in health, life, disability, and other insur-*
15 *ance plans;*

16 *“(BB) the opportunity to participate*
17 *in retirement and savings plans; and*

18 *“(CC) cash bonuses and noncash com-*
19 *pensation, such as stock options (whether or*
20 *not based on performance).”; and*

21 *(B) in subclause (III), by striking “\$1,000”*
22 *and inserting “\$2,000”.*

23 **SEC. 4223. INITIATION OF INVESTIGATIONS.**

24 *Subparagraph (G) of section 212(n)(2) (8 U.S.C.*
25 *1182(n)(2)) is amended—*

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1 (1) *in clause (i), by striking “if the Secretary”*
2 *and all that follows and inserting “with regard to the*
3 *employer’s compliance with the requirements of this*
4 *subsection.”;*

5 (2) *in clause (ii), by striking “and whose iden-*
6 *tity” and all that follows through “failure or fail-*
7 *ures.” and inserting “the Secretary of Labor may*
8 *conduct an investigation into the employer’s compli-*
9 *ance with the requirements of this subsection.”;*

10 (3) *in clause (iii), by striking the last sentence;*

11 (4) *by striking clauses (iv) and (v);*

12 (5) *by redesignating clauses (vi), (vii), and (viii)*
13 *as clauses (iv), (v), and (vi), respectively;*

14 (6) *in clause (iv), as so redesignated, by striking*
15 *“meet a condition described in clause (ii), unless the*
16 *Secretary of Labor receives the information not later*
17 *than 12 months” and inserting “comply with the re-*
18 *quirements under this subsection, unless the Secretary*
19 *of Labor receives the information not later than 24*
20 *months”;*

21 (7) *by amending clause (v), as so redesignated,*
22 *to read as follows:*

23 *“(v) The Secretary of Labor shall provide notice*
24 *to an employer of the intent to conduct an investiga-*
25 *tion. The notice shall be provided in such a manner,*

1 *and shall contain sufficient detail, to permit the em-*
2 *ployer to respond to the allegations before an inves-*
3 *tigation is commenced. The Secretary is not required*
4 *to comply with this clause if the Secretary determines*
5 *that such compliance would interfere with an effort*
6 *by the Secretary to investigate or secure compliance*
7 *by the employer with the requirements of this sub-*
8 *section. A determination by the Secretary under this*
9 *clause shall not be subject to judicial review.”;*

10 *(8) in clause (vi), as so redesignated, by striking*
11 *“An investigation” and all that follows through “the*
12 *determination.” and inserting “If the Secretary of*
13 *Labor, after an investigation under clause (i) or (ii),*
14 *determines that a reasonable basis exists to make a*
15 *finding that the employer has failed to comply with*
16 *the requirements under this subsection, the Secretary*
17 *shall provide interested parties with notice of such de-*
18 *termination and an opportunity for a hearing in ac-*
19 *cordance with section 556 of title 5, United States*
20 *Code, not later than 120 days after the date of such*
21 *determination.”; and*

22 *(9) by adding at the end the following:*

23 *“(vii) If the Secretary of Labor, after a hearing,*
24 *finds a reasonable basis to believe that the employer*
25 *has violated the requirements under this subsection,*

1 *the Secretary shall impose a penalty under subpara-*
2 *graph (C).”.*

3 **SEC. 4224. INFORMATION SHARING.**

4 *Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended*
5 *by sections 4222 and 4223, is further amended by adding*
6 *at the end the following:*

7 *“(J) The Director of U.S. Citizenship and Immigra-*
8 *tion Services shall provide the Secretary of Labor with any*
9 *information contained in the materials submitted by em-*
10 *ployers of H–1B nonimmigrants as part of the adjudication*
11 *process that indicates that the employer is not complying*
12 *with visa program requirements for H–1B nonimmigrants.*
13 *The Secretary of Labor may initiate and conduct an inves-*
14 *tigation related to H–1B nonimmigrants and a hearing*
15 *under this paragraph after receiving information of non-*
16 *compliance under this subparagraph. This subparagraph*
17 *may not be construed to prevent the Secretary of Labor*
18 *from taking action related to wage and hour and workplace*
19 *safety laws.*

20 *“(K) The Secretary of Labor shall facilitate the posting*
21 *of the descriptions described in paragraph (1)(C)(i) on the*
22 *Internet website of the State labor or workforce agency for*
23 *the State in which the position will be primarily located*
24 *during the same period as the posting under paragraph*
25 *(1)(C)(i).”.*

1 **SEC. 4225. TRANSPARENCY OF HIGH-SKILLED IMMIGRATION**
2 **PROGRAMS.**

3 *Section 416(c) of the American Competitiveness and*
4 *Workforce Improvement Act of 1998 (8 U.S.C. 1184 note)*
5 *is amended—*

6 *(1) by amending paragraph (2) to read as fol-*
7 *lows:*

8 *“(2) ANNUAL H-1B NONIMMIGRANT CHARACTER-*
9 *ISTICS REPORT.—The Bureau of Immigration and*
10 *Labor Market Research shall submit an annual report*
11 *to the Committee on the Judiciary of the Senate and*
12 *the Committee on the Judiciary of the House of Rep-*
13 *resentatives that contains—*

14 *“(A) information on the countries of origin*
15 *of, occupations of, educational levels attained by,*
16 *and compensation paid to, aliens who were*
17 *issued visas or otherwise provided nonimmigrant*
18 *status under section 101(a)(15)(H)(i)(b) of the*
19 *Immigration and Nationality Act (8 U.S.C.*
20 *1101(a)(15)(H)(i)(b)) during the previous fiscal*
21 *year;*

22 *“(B) a list of all employers who petition for*
23 *H-1B visas, the number of such petitions filed*
24 *and approved for each such employer, the occu-*
25 *pational classifications for the approved posi-*
26 *tions, and the number of H-1B nonimmigrants*

1 *for whom each such employer files for adjustment*
2 *to permanent resident status;*

3 “(C) *the number of immigrant status peti-*
4 *tions filed during the prior year on behalf of H-*
5 *1B nonimmigrants;*

6 “(D) *a list of all employers who are H-1B-*
7 *dependent employers;*

8 “(E) *a list of all employers who are H-1B*
9 *skilled worker dependent employers;*

10 “(F) *a list of all employers for whom more*
11 *than 30 percent of their United States workforce*
12 *is H-1B or L-1 nonimmigrants;*

13 “(G) *a list of all employers for whom more*
14 *than 50 percent of their United States workforce*
15 *is H-1B or L-1 nonimmigrants;*

16 “(H) *a gender breakdown by occupation*
17 *and by country of H-1B nonimmigrants;*

18 “(I) *a list of all employers who have been*
19 *approved to conduct outplacement of H-1B non-*
20 *immigrants; and*

21 “(J) *the number of H-1B nonimmigrants*
22 *categorized by their highest level of education*
23 *and whether such education was obtained in the*
24 *United States or in a foreign country.”;*

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1 (2) *by redesignating paragraph (3) as para-*
2 *graph (5);*

3 (3) *by inserting after paragraph (2) the fol-*
4 *lowing:*

5 “(3) *ANNUAL L-1 NONIMMIGRANT CHARACTERIS-*
6 *TICS REPORT.—The Bureau of Immigration and*
7 *Labor Market Research shall submit an annual report*
8 *to the Committee on the Judiciary of the Senate and*
9 *the Committee on the Judiciary of the House of Rep-*
10 *resentatives that contains—*

11 “(A) *information on the countries of origin*
12 *of, occupations of, educational levels attained by,*
13 *and compensation paid to, aliens who were*
14 *issued visas or otherwise provided —non-*
15 *immigrant status under section 101(a)(15)(L) of*
16 *the Immigration and Nationality Act (8 U.S.C.*
17 *1101(a)(15)(L)) during the previous fiscal year;*

18 “(B) *a list of all employers who petition for*
19 *L-1 visas, the number of such petitions filed and*
20 *approved for each such employer, the occupa-*
21 *tional classifications for the approved positions,*
22 *and the number of L-1 nonimmigrants for whom*
23 *each such employer files for adjustment to per-*
24 *manent resident status;*

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1 “(C) the number of immigrant status peti-
2 tions filed during the prior year on behalf of L-
3 1 nonimmigrants;

4 “(D) a list of all employers who are L-1 de-
5 pendent employers;

6 “(E) a gender breakdown by occupation and
7 by country of L-1 nonimmigrants;

8 “(F) a list of all employers who have been
9 approved to conduct outplacement of L-1 non-
10 immigrants; and

11 “(G) the number of L-1 nonimmigrants
12 categorized by their highest level of education
13 and whether such education was obtained in the
14 United States or in a foreign country.

15 “(4) ANNUAL EMPLOYER SURVEY.—The Bureau
16 of Immigration and Labor Market Research shall—

17 “(A) conduct an annual survey of employers
18 hiring foreign nationals under the L-1 visa pro-
19 gram; and

20 “(B) shall issue an annual report that—

21 “(i) describes the methods employers
22 are using to meet the requirement of taking
23 good faith steps to recruit United States
24 workers for the occupational classification
25 for which the nonimmigrants are sought,

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1 *using procedures that meet industry-wide*
2 *standards;*

3 “(ii) *describes the best practices for re-*
4 *cruiting among employers; and*

5 “(iii) *contains recommendations on*
6 *which recruiting steps employers can take to*
7 *maximize the likelihood of hiring American*
8 *workers.”; and*

9 (4) *in paragraph (5), as redesignated, by strik-*
10 *ing “paragraph (2)” and inserting “paragraphs (2)*
11 *and (3)”.*

12 **CHAPTER 3—OTHER PROTECTIONS**

13 **SEC. 4231. POSTING AVAILABLE POSITIONS THROUGH THE** 14 **DEPARTMENT OF LABOR.**

15 (a) *DEPARTMENT OF LABOR WEBSITE.*—Section
16 212(n) (8 U.S.C. 1182(n)) *is amended by adding at the end*
17 *following:*

18 “(6)(A) *Not later than 90 days after the date of the*
19 *enactment of the Border Security, Economic Opportunity,*
20 *and Immigration Modernization Act, the Secretary of*
21 *Labor shall establish a searchable Internet website for post-*
22 *ing positions as required by paragraph (1)(C). Such website*
23 *shall be available to the public without charge.*

1 “(B) *The Secretary may work with private companies*
2 *or nonprofit organizations to develop and operate the Inter-*
3 *net website described in subparagraph (A).*

4 “(C) *The Secretary may promulgate rules, after notice*
5 *and a period for comment, to carry out the requirements*
6 *of this paragraph.*”.

7 (b) *REQUIREMENT FOR PUBLICATION.—The Secretary*
8 *of Labor shall submit to Congress and publish in the Fed-*
9 *eral Register and other appropriate media a notice of the*
10 *date that the Internet website required by paragraph (6)*
11 *of section 212(n) of the Immigration and Nationality Act,*
12 *as amended by subsection (a), will be operational.*

13 (c) *APPLICATION.—The amendments made by sub-*
14 *section (a) shall apply to an application filed on or after*
15 *the date that is 30 days after the date described in sub-*
16 *section (b).*

17 **SEC. 4232. REQUIREMENTS FOR INFORMATION FOR H-1B**
18 **AND L NONIMMIGRANTS.**

19 (a) *IN GENERAL.—Section 214 (8 U.S.C. 1184), as*
20 *amended by section 3608, is further amended by adding at*
21 *the end the following:*

22 “(t) *REQUIREMENTS FOR INFORMATION FOR H-1B*
23 *AND L NONIMMIGRANTS.—*

24 “(1) *IN GENERAL.—Upon issuing a visa to an*
25 *applicant for nonimmigrant status pursuant to sub-*

1 *paragraph (H)(i)(b) or (L) of section 101(a)(15) who*
2 *is outside the United States, the issuing office shall*
3 *provide the applicant with—*

4 “(A) *a brochure outlining the obligations of*
5 *the applicant’s employer and the rights of the*
6 *applicant with regard to employment under Fed-*
7 *eral law, including labor and wage protections;*
8 *and*

9 “(B) *the contact information for appro-*
10 *priate Federal agencies or departments that offer*
11 *additional information or assistance in clari-*
12 *fying such obligations and rights.*

13 “(2) *PROVISION OF MATERIAL.—Upon the ap-*
14 *proval of an application of an applicant referred to*
15 *in paragraph (1), the applicant shall be provided*
16 *with the material described in subparagraphs (A) and*
17 *(B) of paragraph (1)—*

18 “(A) *by the issuing officer of the Depart-*
19 *ment of Homeland Security, if the applicant is*
20 *inside the United States; or*

21 “(B) *by the appropriate official of the De-*
22 *partment of State, if the applicant is outside the*
23 *United States.*

24 “(3) *EMPLOYER TO PROVIDE IMMIGRATION PA-*
25 *PERWORK EXCHANGED WITH FEDERAL AGENCIES.—*

1 “(A) *IN GENERAL.*—Not later than 30 days
2 after a labor condition application is filed under
3 section 212(n)(1), an employer shall provide an
4 employee or beneficiary of such application who
5 is or seeking nonimmigrant status under sub-
6 paragraph (H)(i)(b) or (L) of section 101(a)(15)
7 with a copy the original of all applications and
8 petitions filed by the employer with the Depart-
9 ment of Labor or the Department of Homeland
10 Security for such employee or beneficiary.

11 “(B) *WITHHOLDING OF FINANCIAL OR PRO-*
12 *PRIETARY INFORMATION.*—If a document re-
13 quired to be provided to an employee or bene-
14 ficiary under subparagraph (A) includes any fi-
15 nancial or propriety information of the em-
16 ployer, the employer may redact such informa-
17 tion from the copies provided to such employee
18 or beneficiary.”.

19 (b) *REPORT ON JOB CLASSIFICATION AND WAGE DE-*
20 *TERMINATIONS.*—Not later than 1 year after the date of the
21 enactment of this Act, the Comptroller General of the United
22 States shall prepare a report analyzing the accuracy and
23 effectiveness of the Secretary of Labor’s current job classi-
24 fication and wage determination system. The report shall—

1 (1) *specifically address whether the systems in*
2 *place accurately reflect the complexity of current job*
3 *types as well as geographic wage differences; and*

4 (2) *make recommendations concerning necessary*
5 *updates and modifications.*

6 **SEC. 4233. FILING FEE FOR H-1B-DEPENDENT EMPLOYERS.**

7 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
8 *sion of law, there shall be a fee required to be submitted*
9 *by an employer with an application for admission of an*
10 *H-1B nonimmigrant as follows:*

11 (1) *For each fiscal year beginning in fiscal year*
12 *2015, \$5,000 for applicants that employ 50 or more*
13 *employees in the United States if more than 30 per-*
14 *cent and less than 50 percent of the applicant's em-*
15 *ployees are H-1B nonimmigrants or L non-*
16 *immigrants.*

17 (2) *For each of the fiscal years 2015 through*
18 *2017, \$10,000 for applicants that employ 50 or more*
19 *employees in the United States if more than 50 per-*
20 *cent and less than 75 percent of the applicant's em-*
21 *ployees are H-1B nonimmigrants or L non-*
22 *immigrants. Fees collected under this paragraph shall*
23 *be deposited in the Comprehensive Immigration Re-*
24 *form Trust Fund established under section 6(a)(1).*

25 (b) *DEFINITIONS.*—*In this section:*

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1 (1) *EMPLOYER.*—*The term “employer”*—

2 (A) *means any entity or entities treated as*
3 *a single employer under subsection (b), (c), (m),*
4 *or (o) of section 414 of the Internal Revenue*
5 *Code of 1986; and*

6 (B) *does not include a nonprofit institution*
7 *of higher education or a nonprofit research orga-*
8 *nization described in section 501(c)(3) of the In-*
9 *ternal Revenue Code of 1986 and exempt from*
10 *taxation under 501(a) of that Code that is—*

11 (i) *an institution of higher education*
12 *(as defined in section 101(a) of the Higher*
13 *Education Act of 1965 (20 U.S.C.*
14 *1001(a)); or*

15 (ii) *a research organization.*

16 (2) *H-1B NONIMMIGRANT.*—*The term “H-1B*
17 *nonimmigrant” means an alien admitted as a non-*
18 *immigrant pursuant to section 101(a)(15)(H)(i)(b) of*
19 *the Immigration and Nationality Act (8 U.S.C.*
20 *1101(a)(15)(H)(i)(b)).*

21 (3) *INTENDING IMMIGRANT.*—*The term “intend-*
22 *ing immigrant” has the meaning given that term in*
23 *paragraph (54)(A) of section 101(a)(54)(A) of the Im-*
24 *migration and Nationality Act (8 U.S.C. 1101(a)).*

1 (2) *a fee for premium processing of an adminis-*
2 *trative appeal of any decision on a permanent em-*
3 *ployment-based immigrant petition.*

4 **SEC. 4235. TECHNICAL CORRECTION.**

5 *Section 212 (8 U.S.C. 1182) is amended by redesi-*
6 *gnating the second subsection (t), as added by section*
7 *1(b)(2)(B) of the Act entitled “An Act to amend and extend*
8 *the Irish Peace Process Cultural and Training Program Act*
9 *of 1998” (Public Law 108–449 (118 Stat. 3470)), as sub-*
10 *section (u).*

11 **SEC. 4236. APPLICATION.**

12 (a) *IN GENERAL.—Except as otherwise specifically*
13 *provided, the amendments made by this subtitle shall apply*
14 *to applications filed on or after the date of the enactment*
15 *of this Act.*

16 (b) *SPECIAL REQUIREMENTS.—Notwithstanding any*
17 *other provision of law, the amendments made by section*
18 *4211(c) shall not apply to any application or petition filed*
19 *by an employer on behalf of an existing employee.*

20 **SEC. 4237. PORTABILITY FOR BENEFICIARIES OF IMMI-**
21 **GRANT PETITIONS.**

22 (a) *INCREASED PORTABILITY.—Section 204(j) (8*
23 *U.S.C. 1154(j)) is amended—*

24 (1) *by amending the subsection heading to read*
25 *as follows:*

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1 “(j) *INCREASED PORTABILITY.—*”;

2 (2) *by striking “A petition” and inserting the*
3 *following:*

4 “(1) *LONG DELAYED APPLICANTS FOR ADJUST-*
5 *MENT OF STATUS.—A petition*”; *and*

6 (3) *by adding at the end the following:*

7 “(2) *PORTABILITY FOR BENEFICIARIES OF IMMI-*
8 *GRANT PETITIONS.—Regardless of whether an em-*
9 *ployer withdraws a petition approved under para-*
10 *graph (1), (2), or (3) of section 203(b)—*

11 “(A) *the petition shall remain valid with*
12 *respect to a new job if—*

13 “(i) *the beneficiary changes jobs or em-*
14 *ployers after the petition is approved; and*

15 “(ii) *the new job is in the same or a*
16 *similar occupational classification as the*
17 *job for which the petition was approved;*
18 *and*

19 “(B) *the employer’s legal obligations with*
20 *respect to the petition shall terminate at the time*
21 *the beneficiary changes jobs or employers.*

22 “(3) *DOCUMENTATION.—The Secretary of Labor*
23 *shall develop a mechanism to provide the beneficiary*
24 *or prospective employer with sufficient information to*
25 *determine whether a new position or job is in the*

1 *same or similar occupation as the job for which the*
2 *petition was approved. The Secretary of Labor shall*
3 *provide confirmation of application approval if re-*
4 *quired for eligibility under this subsection. The Sec-*
5 *retary of Homeland Security shall provide confirma-*
6 *tion of petition approval if required for eligibility*
7 *under this subsection.”.*

8 **(b) ADJUSTMENT OF STATUS FOR EMPLOYMENT-**
9 **BASED IMMIGRANTS.—**

10 **(1) IN GENERAL.—***Section 245 of the Immigra-*
11 *tion and Nationality Act (8 U.S.C. 1255) is amended*
12 *by adding at the end the following:*

13 **“(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-**
14 **BASED IMMIGRANTS.—**

15 **“(1) PETITION.—***An alien, and any eligible de-*
16 *pendents of such alien, who has filed a petition for*
17 *immigrant status, may concurrently, or at any time*
18 *thereafter, file an application with the Secretary of*
19 *Homeland Security for adjustment of status if such*
20 *petition is pending or has been approved, regardless*
21 *of whether an immigrant visa is immediately avail-*
22 *able at the time the application is filed.*

23 **“(2) SUPPLEMENTAL FEE.—***If a visa is not im-*
24 *mediately available at the time an application is filed*
25 *under paragraph (1), the beneficiary of such applica-*

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1 *tion shall pay a supplemental fee of \$500, which shall*
2 *be deposited in the STEM Education and Training*
3 *Account established under section 286(w). This fee*
4 *shall not be collected from any dependent accom-*
5 *panying or following to join such beneficiary.*

6 *“(3) AVAILABILITY.—An application filed pursu-*
7 *ant to paragraph (2) may not be approved until the*
8 *date on which an immigrant visa becomes available.”.*

9 ***Subtitle C—L Visa Fraud and***
10 ***Abuse Protections***

11 ***SEC. 4301. PROHIBITION ON OUTPLACEMENT OF L NON-***
12 ***IMMIGRANTS.***

13 *Section 214(c)(2)(F) (8 U.S.C. 1184(c)(2)(F)) is*
14 *amended to read as follows:*

15 *“(F)(i) An employer who employs L-1 nonimmigrants*
16 *in a number that is equal to at least 15 percent of the total*
17 *number of full-time equivalent employees employed by the*
18 *employer shall not place, outsource, lease, or otherwise con-*
19 *tract for the services or placement of such alien with another*
20 *employer. In determining the number of employees who are*
21 *L-1 nonimmigrants, an intending immigrant shall count*
22 *as a United States worker.*

23 *“(ii) The employer of an alien described in section*
24 *101(a)(15)(L) shall not place, outsource, lease, or otherwise*

1 *contract for the services or placement of such alien with*
2 *another employer unless—*

3 *“(I) such alien will not be controlled or super-*
4 *vised principally by the employer with whom such*
5 *alien would be placed;*

6 *“(II) the placement of such alien at the worksite*
7 *of the other employer is not essentially an arrange-*
8 *ment to provide labor for hire for the other employer;*
9 *and*

10 *“(III) the employer of such alien pays a fee of*
11 *\$500, which shall be deposited in the STEM Edu-*
12 *cation and Training Account established under sec-*
13 *tion 286(w).”.*

14 **SEC. 4302. L EMPLOYER PETITION REQUIREMENTS FOR EM-**
15 **PLOYMENT AT NEW OFFICES.**

16 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended by*
17 *adding at the end the following:*

18 *“(G)(i) If the beneficiary of a petition under this para-*
19 *graph is coming to the United States to open, or be em-*
20 *ployed in, a new office, the petition may be approved for*
21 *up to 12 months only if—*

22 *“(I) the alien has not been the beneficiary of 2*
23 *or more petitions under this subparagraph during the*
24 *immediately preceding 2 years; and*

1 “(II) the employer operating the new office
2 has—

3 “(aa) an adequate business plan;

4 “(bb) sufficient physical premises to carry
5 out the proposed business activities; and

6 “(cc) the financial ability to commence
7 doing business immediately upon the approval of
8 the petition.

9 “(ii) An extension of the approval period under clause
10 (i) may not be granted until the importing employer sub-
11 mits an application to the Secretary of Homeland Security
12 that contains—

13 “(I) evidence that the importing employer meets
14 the requirements of this subsection;

15 “(II) evidence that the beneficiary of the petition
16 is eligible for nonimmigrant status under section
17 101(a)(15)(L);

18 “(III) a statement summarizing the original pe-
19 tition;

20 “(IV) evidence that the importing employer has
21 complied with the business plan submitted under
22 clause (i)(I);

23 “(V) evidence of the truthfulness of any represen-
24 tations made in connection with the filing of the
25 original petition;

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1 “(VI) evidence that the importing employer has
2 been doing business at the new office through regular,
3 systematic, and continuous provision of goods and
4 services;

5 “(VII) a statement of the duties the beneficiary
6 has performed at the new office during the approval
7 period under clause (i) and the duties the beneficiary
8 will perform at the new office during the extension
9 period granted under this clause;

10 “(VIII) a statement describing the staffing at the
11 new office, including the number of employees and the
12 types of positions held by such employees;

13 “(IX) evidence of wages paid to employees;

14 “(X) evidence of the financial status of the new
15 office; and

16 “(XI) any other evidence or data prescribed by
17 the Secretary.

18 “(iii) A new office employing the beneficiary of an L-
19 1 petition approved under this paragraph shall do business
20 only through regular, systematic, and continuous provision
21 of goods and services.

22 “(iv) Notwithstanding clause (ii), and subject to the
23 maximum period of authorized admission set forth in sub-
24 paragraph (D), the Secretary of Homeland Security, in the
25 Secretary’s discretion, may approve a subsequently filed pe-

1 *tion on behalf of the beneficiary to continue employment*
2 *at the office described in this subparagraph for a period*
3 *beyond the initially granted 12-month period if the import-*
4 *ing employer has been doing business at the new office*
5 *through regular, systematic, and continuous provision of*
6 *goods and services for the 6 months immediately preceding*
7 *the date of extension of petition filing and demonstrates*
8 *that the failure to satisfy any of the requirements described*
9 *in those subclauses was directly caused by extraordinary*
10 *circumstances, as determined by the Secretary in the Sec-*
11 *retary's discretion."*

12 **SEC. 4303. COOPERATION WITH SECRETARY OF STATE.**

13 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended*
14 *by section 4302, is further amended by adding at the end*
15 *the following:*

16 *"(H) For purposes of approving petitions under this*
17 *paragraph, the Secretary of Homeland Security shall work*
18 *cooperatively with the Secretary of State to verify the exist-*
19 *ence or continued existence of a company or office in the*
20 *United States or in a foreign country."*

21 **SEC. 4304. LIMITATION ON EMPLOYMENT OF L NON-**
22 **IMMIGRANTS.**

23 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended*
24 *by sections 4302 and 4303, is further amended by adding*
25 *at the end the following:*

1 “(I)(i) If the employer employs 50 or more employees
2 in the United States, the sum of the number of such employ-
3 ees who are H–1B nonimmigrants plus the number of such
4 employees who are L nonimmigrants may not exceed—

5 “(I) 75 percent of the total number of employees,
6 for fiscal year 2015;

7 “(II) 65 percent of the total number of employ-
8 ees, for fiscal year 2016; and

9 “(III) 50 percent of the total number of employ-
10 ees, for each fiscal year after fiscal year 2016.

11 “(ii) In this subparagraph:

12 “(I) The term ‘employer’ does not include a non-
13 profit institution of higher education or a nonprofit
14 research organization described in section 501(c)(3) of
15 the Internal Revenue Code of 1986 and exempt from
16 taxation under 501(a) of that Code that is—

17 “(aa) an institution of higher education (as
18 defined in section 101(a) of the Higher Edu-
19 cation Act of 1965 (20 U.S.C. 1001(a))); or

20 “(bb) a research organization.

21 “(II) The term ‘H–1B nonimmigrant’ means an
22 alien admitted as a nonimmigrant pursuant to sec-
23 tion 101(a)(15)(H)(i)(b).

24 “(III) The term ‘L nonimmigrant’ means an
25 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 applicant’s*
15 *employees are H–1B nonimmigrants or L non-*
16 *immigrants.*

17 *(2) For each of the fiscal years 2014 through*
18 *2017, \$10,000 for applicants that employ 50 or more*
19 *employees in the United States if more than 50 per-*
20 *cent and less than 75 percent of the applicant’s em-*
21 *ployees are H–1B nonimmigrants or L non-*
22 *immigrants. Fees collected under this paragraph shall*
23 *be deposited in the Comprehensive Immigration Re-*
24 *form Trust Fund established under section 6(a)(1).*

25 *(b) DEFINITIONS.—In this section:*

1 (1) *EMPLOYER.*—*The term “employer” does not*
2 *include a nonprofit institution of higher education or*
3 *a nonprofit research organization described in section*
4 *501(c)(3) of the Internal Revenue Code of 1986 and*
5 *exempt from taxation under 501(a) of that Code that*
6 *is—*

7 (A) *an institution of higher education (as*
8 *defined in section 101(a) of the Higher Edu-*
9 *cation Act of 1965 (20 U.S.C. 1001(a)); or*

10 (B) *a research organization.*

11 (2) *H-1B NONIMMIGRANT.*—*The term “H-1B*
12 *nonimmigrant” means an alien admitted as a non-*
13 *immigrant pursuant to section 101(a)(15)(H)(i)(b) of*
14 *the Immigration and Nationality Act (8 U.S.C.*
15 *1101(a)(15)(H)(i)(b)).*

16 (3) *L NONIMMIGRANT.*—*The term “L non-*
17 *immigrant” means an alien admitted as a non-*
18 *immigrant pursuant to section 101(a)(15)(L) of the*
19 *Immigration and Nationality Act (8 U.S.C.*
20 *1101(a)(15)(L)) to provide services to the alien’s em-*
21 *ployer involving specialized knowledge.*

22 (c) *EXCEPTION FOR INTENDING IMMIGRANTS.*—*In de-*
23 *termining the percentage of employees of an employer that*
24 *are H-1B nonimmigrants or L nonimmigrants under sub-*
25 *section (a), an intending immigrant employee (as defined*

1 *in section 101(a)(54)(A) of the Immigration and Nation-*
2 *ality Act shall not count toward such percentage.*

3 *(d) CONFORMING AMENDMENT.—Section 402 of the*
4 *Act entitled “An Act making emergency supplemental ap-*
5 *propriations for border security for the fiscal year ending*
6 *September 30, 2010, and for other purposes”, approved Au-*
7 *gust 13, 2010 (Public Law 111–230; 8 U.S.C. 1101 note),*
8 *as amended by section 4233(d), is further amended by strik-*
9 *ing subsections (a) and (c).*

10 **SEC. 4306. INVESTIGATION AND DISPOSITION OF COM-**
11 **PLAINTS AGAINST L NONIMMIGRANT EM-**
12 **PLOYERS.**

13 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended*
14 *by sections 4302, 4303, and 4304 is further amended by*
15 *adding at the end the following:*

16 *“(J)(i) The Secretary of Homeland Security may ini-*
17 *tiate an investigation of any employer that employs non-*
18 *immigrants described in section 101(a)(15)(L) with regard*
19 *to the employer’s compliance with the requirements of this*
20 *subsection.*

21 *“(ii)(I) If the Secretary receives specific credible infor-*
22 *mation from a source who is likely to have knowledge of*
23 *an employer’s practices, employment conditions, or compli-*
24 *ance with the requirements under this subsection, the Sec-*

1 *retary may conduct an investigation into the employer's*
2 *compliance with the requirements of this subsection.*

3 “(II) *The Secretary may withhold the identity of a*
4 *source referred to in subclause (I) from an employer and*
5 *the identity of such source shall not be subject to disclosure*
6 *under section 552 of title 5, United States Code.*

7 “(iii) *The Secretary shall establish a procedure for any*
8 *person desiring to provide to the Secretary information de-*
9 *scribed in clause (ii)(I) that may be used, in whole or in*
10 *part, as the basis for the commencement of an investigation*
11 *described in such clause, to provide the information in writ-*
12 *ing on a form developed and provided by the Secretary and*
13 *completed by or on behalf of the person.*

14 “(iv) *No investigation described in clause (ii)(I) (or*
15 *hearing described in clause (vi) based on such investigation)*
16 *may be conducted with respect to information about a fail-*
17 *ure to comply with the requirements under this subsection,*
18 *unless the Secretary receives the information not later than*
19 *24 months after the date of the alleged failure.*

20 “(v)(I) *Subject to subclause (III), before commencing*
21 *an investigation of an employer under clause (i) or (ii),*
22 *the Secretary shall provide notice to the employer of the*
23 *intent to conduct such investigation.*

24 “(II) *The notice required by subclause (I) shall be pro-*
25 *vided in such a manner, and shall contain sufficient detail,*

1 *to permit the employer to respond to the allegations before*
2 *an investigation is commenced.*

3 “(III) *The Secretary is not required to comply with*
4 *this clause if the Secretary determines that to do so would*
5 *interfere with an effort by the Secretary to investigate or*
6 *secure compliance by the employer with the requirements*
7 *of this subsection.*

8 “(IV) *There shall be no judicial review of a determina-*
9 *tion by the Secretary under this clause.*

10 “(vi) *If the Secretary, after an investigation under*
11 *clause (i) or (ii), determines that a reasonable basis exists*
12 *to make a finding that the employer has failed to comply*
13 *with the requirements under this subsection, the Secretary*
14 *shall provide the interested parties with notice of such deter-*
15 *mination and an opportunity for a hearing in accordance*
16 *with section 556 of title 5, United States Code, not later*
17 *than 120 days after the date of such determination. If such*
18 *a hearing is requested, the Secretary shall make a finding*
19 *concerning the matter by not later than 120 days after the*
20 *date of the hearing.*

21 “(vii) *If the Secretary, after a hearing, finds a reason-*
22 *able basis to believe that the employer has violated the re-*
23 *quirements under this subsection, the Secretary shall impose*
24 *a penalty under subparagraph (K).*

1 “(viii)(I) *The Secretary may conduct voluntary sur-*
2 *veys of the degree to which employers comply with the re-*
3 *quirements under this section.*

4 “(II) *The Secretary shall—*

5 “(aa) *conduct annual compliance audits of each*
6 *employer with more than 100 employees who work in*
7 *the United States if more than 15 percent of such em-*
8 *ployees are nonimmigrants described in*
9 *101(a)(15)(L); and*

10 “(bb) *make available to the public an executive*
11 *summary or report describing the general findings of*
12 *the audits carried out pursuant to this subclause.”.*

13 **SEC. 4307. PENALTIES.**

14 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended*
15 *by sections 4302, 4303, 4304, and 4306, is further amended*
16 *by adding at the end the following:*

17 “(K)(i) *If the Secretary of Homeland Security finds,*
18 *after notice and an opportunity for a hearing, a failure*
19 *by an employer to meet a condition under subparagraph*
20 *(F), (G), or (L) or a misrepresentation of material fact in*
21 *a petition to employ 1 or more aliens as nonimmigrants*
22 *described in section 101(a)(15)(L)—*

23 “(I) *the Secretary shall impose such administrative*
24 *remedies (including civil monetary penalties in an amount*

1 *not to exceed \$2,000 per violation) as the Secretary deter-*
2 *mines to be appropriate;*

3 *“(II) the Secretary may not, during a period of at*
4 *least 1 year, approve a petition for that employer to employ*
5 *1 or more aliens as such nonimmigrants; and*

6 *“(III) in the case of a violation of subparagraph (J),*
7 *the employer shall be liable to the employees harmed by such*
8 *violation for lost wages and benefits.*

9 *“(ii) If the Secretary finds, after notice and an oppor-*
10 *tunity for a hearing, a willful failure by an employer to*
11 *meet a condition under subparagraph (F), (G), or (L) or*
12 *a willful misrepresentation of material fact in a petition*
13 *to employ 1 or more aliens as nonimmigrants described in*
14 *section 101(a)(15)(L)—*

15 *“(I) the Secretary shall impose such administra-*
16 *tive remedies (including civil monetary penalties in*
17 *an amount not to exceed \$10,000 per violation) as the*
18 *Secretary determines to be appropriate;*

19 *“(II) the Secretary may not, during a period of*
20 *at least 2 years, approve a petition filed for that em-*
21 *ployer to employ 1 or more aliens as such non-*
22 *immigrants; and*

23 *“(III) in the case of a violation of subparagraph*
24 *(J), the employer shall be liable to the employees*

1 *harmed by such violation for lost wages and bene-*
2 *fits.”.*

3 **SEC. 4308. PROHIBITION ON RETALIATION AGAINST L NON-**
4 **IMMIGRANTS.**

5 *Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended*
6 *by sections 4302, 4303, 4303, 4306, and 4307, is further*
7 *amended by adding at the end the following:*

8 *“(L)(i) It is a violation of this subparagraph for an*
9 *employer who has filed a petition to import 1 or more*
10 *aliens as nonimmigrants described in section 101(a)(15)(L)*
11 *to take, fail to take, or threaten to take or fail to take, a*
12 *personnel action, or to intimidate, threaten, restrain, co-*
13 *erce, blacklist, discharge, or discriminate in any other man-*
14 *ner against an employee because the employee—*

15 *“(I) has disclosed information that the employee*
16 *reasonably believes evidences a violation of this sub-*
17 *section, or any rule or regulation pertaining to this*
18 *subsection; or*

19 *“(II) cooperates or seeks to cooperate with the re-*
20 *quirements of this subsection, or any rule or regula-*
21 *tion pertaining to this subsection.*

22 *“(ii) In this subparagraph, the term ‘employee’ in-*
23 *cludes—*

24 *“(I) a current employee;*

25 *“(II) a former employee; and*

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1 “(III) an applicant for employment.”.

2 **SEC. 4309. REPORTS ON L NONIMMIGRANTS.**

3 Section 214(c)(8) (8 U.S.C. 1184(c)(8)) is amended by
4 inserting “(L),” after “(H),”.

5 **SEC. 4310. APPLICATION.**

6 The amendments made by this subtitle shall apply to
7 applications filed on or after the date of the enactment of
8 this Act.

9 **SEC. 4311. REPORT ON L BLANKET PETITION PROCESS.**

10 Not later than 6 months after the date of the enactment
11 of this Act, the Inspector General of the Department shall
12 submit to the Committee on the Judiciary of the Senate and
13 the Committee on the Judiciary of the House of Representa-
14 tives a report regarding the use of blanket petitions under
15 section 214(c)(2)(A) of the Immigration and Nationality
16 Act (8 U.S.C. 1184(c)(2)(A)). Such report shall assess the
17 efficiency and reliability of the process for reviewing such
18 blanket petitions, including whether the process includes
19 adequate safeguards against fraud and abuse.

20 **Subtitle D—Other Nonimmigrant**
21 **Visas**

22 **SEC. 4401. NONIMMIGRANT VISAS FOR STUDENTS.**

23 (a) AUTHORIZATION OF DUAL INTENT FOR F NON-
24 IMMIGRANTS SEEKING BACHELOR’S OR GRADUATE DE-

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1 *GREES.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F))*
2 *is amended to read as follows:*

3 “(F)(i) *an alien having a residence in a*
4 *foreign country who is a bona fide student quali-*
5 *fied to pursue a full course of study and who*
6 *seeks to enter the United States temporarily and*
7 *solely for the purpose of pursuing such a course*
8 *of study consistent with section 214(m) at an ac-*
9 *credited college, university, or language training*
10 *program, or at an established seminary, conserv-*
11 *atory, academic high school, elementary school,*
12 *or other academic institution in the United*
13 *States, particularly designated by the alien and*
14 *approved by the Secretary of Homeland Security*
15 *after consultation with the Secretary of Edu-*
16 *cation, which institution or place of study shall*
17 *have agreed to report to the Secretary of Home-*
18 *land Security the termination of attendance of*
19 *each nonimmigrant student, and if any such in-*
20 *stitution of learning or place of study fails to*
21 *make reports promptly the approval shall be*
22 *withdrawn, except that such an alien who is not*
23 *seeking to pursue a degree that is a bachelor’s de-*
24 *gree or a graduate degree shall have a residence*

1 *in a foreign country that the alien has no inten-*
2 *tion of abandoning;*

3 “(ii) *the alien spouse and minor children of*
4 *any alien described in clause (i) if accom-*
5 *panying or following to join such an alien; and*

6 “(iii) *an alien who is a national of Canada*
7 *or Mexico, who maintains actual residence and*
8 *place of abode in the country of nationality, who*
9 *is described in clause (i) except that the alien’s*
10 *qualifications for and actual course of study*
11 *may be full or part-time, and who commutes to*
12 *the United States institution or place of study*
13 *from Canada or Mexico.”.*

14 (b) *DUAL INTENT.—Section 214(h) (8 U.S.C. 1184(h))*
15 *is amended to read as follows:*

16 “(h) *DUAL INTENT.—The fact that an alien is, or in-*
17 *tends to be, the beneficiary of an application for a pref-*
18 *erence status filed under section 204, seeks a change or ad-*
19 *justment of status after completing a legitimate period of*
20 *nonimmigrant stay, or has otherwise sought permanent res-*
21 *idence in the United States shall not constitute evidence of*
22 *intent to abandon a foreign residence that would preclude*
23 *the alien from obtaining or maintaining—*

24 “(1) *a visa or admission as a nonimmigrant de-*
25 *scribed in subparagraph (E), (F)(i), (F)(ii),*

1 *(H)(i)(b), (H)(i)(c), (L), (O), (P), (V), or (W) of sec-*
2 *tion 101(a)(15); or*

3 *“(2) the status of a nonimmigrant described in*
4 *any such subparagraph.”.*

5 *(c) REQUIREMENT OF STUDENT VISA DATA TRANSFER*
6 *AND CERTIFICATION.—*

7 *(1) IN GENERAL.—The Secretary shall imple-*
8 *ment real-time transmission of data from the Student*
9 *and Exchange Visitor Information System to data-*
10 *bases used by U.S. Customs and Border Protection.*

11 *(2) CERTIFICATION.—*

12 *(A) IN GENERAL.—Not later than 120 days*
13 *after the date of the enactment of this Act, the*
14 *Secretary shall certify to Congress that the trans-*
15 *mission of data referred to in paragraph (1) has*
16 *been implemented.*

17 *(B) TEMPORARY SUSPENSION OF VISA*
18 *ISSUANCE.—If the Secretary has not made the*
19 *certification referred to in subparagraph (A)*
20 *during the 120-day period, the Secretary shall*
21 *suspend issuance of visas under subparagraphs*
22 *(F) and (M) of section 101(a)(15) of the Immig-*
23 *ration and Nationality Act (8 U.S.C.*
24 *1101(a)(15)) until the certification is made.*

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1 **SEC. 4402. CLASSIFICATION FOR SPECIALTY OCCUPATION**
2 **WORKERS FROM FREE TRADE COUNTRIES.**

3 (a) NONIMMIGRANT STATUS.—Section
4 101(a)(15)(E)(8 U.S.C. 1101(a)(15)(E)) is amended—

5 (1) in the matter preceding clause (i), by insert-
6 ing “, bilateral investment treaty, or free trade agree-
7 ment” after “treaty of commerce and navigation”;

8 (2) in clause (ii), by striking “or” at the end;
9 and

10 (3) by adding at the end the following:

11 “(iv) solely to perform services in a
12 specialty occupation in the United States if
13 the alien is a national of a country, other
14 than Chile, Singapore, or Australia, with
15 which the United States has entered into a
16 free trade agreement (regardless of whether
17 such an agreement is a treaty of commerce
18 and navigation) and with respect to whom
19 the Secretary of Labor determines and cer-
20 tifies to the Secretary of Homeland Security
21 and the Secretary of State that the intend-
22 ing employer has filed with the Secretary of
23 Labor an attestation under section 212(t);

24 “(v) solely to perform services in a spe-
25 cialty occupation in the United States if the
26 alien is a national of the Republic of Korea

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1 *and with respect to whom the Secretary of*
2 *Labor determines and certifies to the Sec-*
3 *retary of Homeland Security and the Sec-*
4 *retary of State that the intending employer*
5 *has filed with the Secretary of Labor an at-*
6 *testation under section 212(t); or*

7 *“(vi) solely to perform services as an*
8 *employee and who has at least a high school*
9 *education or its equivalent, or has, during*
10 *the most recent 5-year period, at least 2*
11 *years of work experience in an occupation*
12 *which requires at least 2 years of training*
13 *or experience if the alien is a national of a*
14 *country—*

15 *“(I) designated as an eligible sub-*
16 *Saharan African country under section*
17 *104 of the African Growth and Oppor-*
18 *tunity Act (19 U.S.C. 3703); or*

19 *“(II) designated as a beneficiary*
20 *country for purposes of the Caribbean*
21 *Basin Economic Recovery Act (19*
22 *U.S.C. 2701 et seq.);”.*

23 **(b) NUMERICAL LIMITATION.**—*Section 214(g)(11) (8*
24 *U.S.C. 1184(g)(11)) is amended—*

1 (1) in subparagraph (A), by striking “section
2 101(a)(15)(E)(iii)” and inserting “clauses (iii) and
3 (vi) of section 101(a)(15)(E)”; and

4 (2) in subparagraph (B), by striking the period
5 at the end and inserting “for each of the nationalities
6 identified under clause (iii) of section 101(a)(15)(E)
7 and for all visas issued pursuant to clause (vi) of
8 such section.”.

9 (c) *FREE TRADE AGREEMENTS*.—Section 214(g) (8
10 U.S.C. 1184(g)) is amended by adding at the end the fol-
11 lowing:

12 “(12)(A) The free trade agreements referred to in sec-
13 tion 101(a)(15)(E)(iv) are defined as any free trade agree-
14 ment designated by the Secretary of Homeland Security
15 with the concurrence of the United States Trade Represent-
16 ative and the Secretary of State.

17 “(B) The Secretary of State may not approve a num-
18 ber of initial applications submitted for aliens described in
19 clause (iv) or (v) of section 101(a)(15)(E) that is more than
20 5,000 per fiscal year for each country with which the
21 United States has entered into a Free Trade Agreement.

22 “(C) The applicable numerical limitation referred to
23 in subparagraph (A) shall apply only to principal aliens
24 and not to the spouses or children of such aliens.”.

1 (d) *NONIMMIGRANT PROFESSIONALS*.—Section 212(t)
2 (8 U.S.C. 1182(t)) is amended by striking “section
3 101(a)(15)(E)(iii)” each place that term appears and in-
4 serting “clause (iv) or (v) of section 101(a)(15)(E)”.

5 **SEC. 4403. E-VISA REFORM.**

6 (a) *NONIMMIGRANT CATEGORY*.—Section
7 101(a)(15)(E)(iii) (8 U.S.C. 1101(a)(15)(E)(iii)) is amend-
8 ed by inserting “, or solely to perform services as an em-
9 ployee and who has at least a high school education or its
10 equivalent, or has, within 5 years, at least 2 years of work
11 experience in an occupation which requires at least 2 years
12 of training or experience if the alien is a national of the
13 Republic of Ireland,” after “Australia”.

14 (b) *TEMPORARY ADMISSION*.—Section 212(d)(3)(A) (8
15 U.S.C. 1182(d)(3)(A)) is amended to read as follows:

16 “(A) Except as otherwise provided in this sub-
17 section—

18 “(i) an alien who is applying for a non-
19 immigrant visa and who the consular officer
20 knows or believes to be ineligible for such visa
21 under subsection (a) (other than subparagraphs
22 (A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and
23 (E)(ii) of paragraph (3) of such subsection)—

24 “(I) after approval by the Secretary of
25 Homeland Security of a recommendation by

1 *the Secretary of State or by the consular of-*
2 *ficer that the alien be admitted temporarily*
3 *despite the alien's inadmissibility, may be*
4 *granted such a visa and may be admitted*
5 *into the United States temporarily as a*
6 *nonimmigrant, in the discretion of the Sec-*
7 *retary of Homeland Security; or*

8 *“(II) absent such recommendation and*
9 *approval, be granted a nonimmigrant visa*
10 *pursuant to section 101(a)(15)(E) if such*
11 *ineligibility is based solely on conduct in*
12 *violation of paragraph (6), (7), or (9) of*
13 *section 212(a) that occurred before the date*
14 *of the enactment of the Border Security,*
15 *Economic Opportunity, and Immigration*
16 *Modernization Act; and*

17 *“(i) an alien who is inadmissible under*
18 *subsection (a) (other than subparagraphs*
19 *(A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and*
20 *(E)(ii) of paragraph (3) of such subsection), is*
21 *in possession of appropriate documents or was*
22 *granted a waiver from such document require-*
23 *ment, and is seeking admission, may be admit-*
24 *ted into the United States temporarily as a non-*
25 *immigrant, in the discretion of the Secretary of*

1 *Homeland Security, who shall prescribe condi-*
2 *tions, including exaction of such bonds as may*
3 *be necessary, to control and regulate the admis-*
4 *sion and return of inadmissible aliens applying*
5 *for temporary admission under this para-*
6 *graph.”.*

7 (c) *NUMERICAL LIMITATION.*—*Section 214(g)(11)(B)*
8 *(8 U.S.C. 1184(g)(11)(B)) is amended by striking the pe-*
9 *riod at the end and inserting “for each of the nationalities*
10 *identified under section 101(a)(15)(E)(iii).”.*

11 **SEC. 4404. OTHER CHANGES TO NONIMMIGRANT VISAS.**

12 (a) *PORTABILITY.*—*Paragraphs (1) and (2) of section*
13 *214(n) (8 U.S.C. 1184(n)) are amended to read as follows:*

14 “(1) *A nonimmigrant alien described in paragraph (2)*
15 *who was previously issued a visa or otherwise provided non-*
16 *immigrant status under section 101(a)(15)(H)(i)(b) or*
17 *101(a)(15)(O)(i) is authorized to accept new employment*
18 *pursuant to such section upon the filing by the prospective*
19 *employer of a new petition on behalf of such nonimmigrant*
20 *as provided under subsection (a). Employment authoriza-*
21 *tion shall continue for such alien until the new petition*
22 *is adjudicated. If the new petition is denied, such authoriza-*
23 *tion shall cease.*

24 “(2) *A nonimmigrant alien described in this para-*
25 *graph is a nonimmigrant alien—*

1 “(A) *who has been lawfully admitted into the*
2 *United States;*

3 “(B) *on whose behalf an employer has filed a*
4 *nonfrivolous petition for new employment before the*
5 *date of expiration of the period of stay authorized by*
6 *the Secretary of Homeland Security; and*

7 “(C) *who, subsequent to such lawful admission,*
8 *has not been employed without authorization in the*
9 *United States before the filing of such petition.”.*

10 (b) *WAIVER.—The undesignated material at the end*
11 *of section 214(c)(3) (8 U.S.C. 1184(c)(3)) is amended to*
12 *read as follows:*

13 *“The Secretary of Homeland Security shall provide by reg-*
14 *ulation for the waiver of the consultation requirement under*
15 *subparagraph (A) in the case of aliens who have been ad-*
16 *mitted as nonimmigrants under section 101(a)(15)(O)(i)*
17 *because of extraordinary ability in the arts or extraor-*
18 *dinary achievement in motion picture or television produc-*
19 *tion and who seek readmission to perform similar services*
20 *within 3 years after the date of a consultation under such*
21 *subparagraph provided that, in the case of aliens admitted*
22 *because of extraordinary achievement in motion picture or*
23 *television production, such waiver shall apply only if the*
24 *prior consultations by the appropriate union and manage-*
25 *ment organization were favorable or raised no objection to*

1 *the approval of the petition. Not later than 5 days after*
 2 *such a waiver is provided, the Secretary shall forward a*
 3 *copy of the petition and all supporting documentation to*
 4 *the national office of an appropriate labor organization. In*
 5 *the case of an alien seeking entry for a motion picture or*
 6 *television production (i) any opinion under the previous*
 7 *sentence shall only be advisory; (ii) any such opinion that*
 8 *recommends denial must be in writing; (iii) in making the*
 9 *decision the Attorney General shall consider the exigencies*
 10 *and scheduling of the production; (iv) the Attorney General*
 11 *shall append to the decision any such opinion; and (v) upon*
 12 *making the decision, the Attorney General shall imme-*
 13 *diately provide a copy of the decision to the consulting labor*
 14 *and management organizations.”.*

15 **SEC. 4405. TREATMENT OF NONIMMIGRANTS DURING ADJU-**
 16 **DICATION OF APPLICATION.**

17 *Section 214 (8 U.S.C. 1184), as amended by sections*
 18 *3609 and 4233, is further amended by adding at the end*
 19 *the following:*

20 *“(u) TREATMENT OF NONIMMIGRANTS DURING ADJU-*
 21 *DICATION OF APPLICATION.—A nonimmigrant alien grant-*
 22 *ed employment authorization pursuant to sections*
 23 *101(a)(15)(A), 101(a)(15)(E), 101(a)(15)(G),*
 24 *101(a)(15)(H), 101(a)(15)(I), 101(a)(15)(J),*
 25 *101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P),*

1 101(a)(15)(Q), 101(a)(15)(R), 214(e), and such other sec-
2 tions as the Secretary of Homeland Security may by regu-
3 lations prescribe whose status has expired but who has, or
4 whose sponsoring employer or authorized agent has, filed
5 a timely application or petition for an extension of such
6 employment authorization and nonimmigrant status as
7 provided under subsection (a) is authorized to continue em-
8 ployment with the same employer until the application or
9 petition is adjudicated. Such authorization shall be subject
10 to the same conditions and limitations as the initial grant
11 of employment authorization.”.

12 **SEC. 4406. NONIMMIGRANT ELEMENTARY AND SECONDARY**
13 **SCHOOL STUDENTS.**

14 Section 214(m)(1)(B) (8 U.S.C. 1184(m)(1)(B)) is
15 amended striking “unless—” and all that follows through
16 “(ii)” and inserting “unless”.

17 **SEC. 4407. J-1 SUMMER WORK TRAVEL VISA EXCHANGE VIS-**
18 **ITOR PROGRAM FEE.**

19 Section 281 (8 U.S.C. 1351), as amended by section
20 4105, is further amended by adding at the end the fol-
21 lowing:

22 “(e) J-1 VISA EXCHANGE VISITOR PROGRAM FEE.—
23 “(1) IN GENERAL.—In addition to the fees au-
24 thorized under subsection (a), the Secretary of State
25 shall collect from designated program sponsors, a

1 \$500 fee for each nonimmigrant entering under the
2 Summer Work Travel program conducted by the Sec-
3 retary of State pursuant to the Foreign Affairs Re-
4 form and Restructuring Act of 1998 (division G of
5 Public Law 105–277; 112 Stat. 2681–761). Fees col-
6 lected under this subsection shall be deposited into the
7 Comprehensive Immigration Reform Trust Fund es-
8 tablished under section 6(a)(1) of the Border Security,
9 Economic Opportunity, and Immigration Moderniza-
10 tion Act.

11 “(2) REGULATIONS AND LIMITATIONS.—The Sec-
12 retary of Homeland Security, in conjunction with the
13 Secretary of State, shall promulgate regulations en-
14 suring that a fee required by paragraph (1) is paid
15 on behalf of all summer work travel nonimmigrants
16 under section 101(a)(15)(J) seeking entry into the
17 United States. A fee related to the hiring of such a
18 summer work travel nonimmigrant shall be paid by
19 the designated program sponsor and may not be
20 charged to such summer work travel nonimmigrant.
21 There shall not be more than 1 fee collected per such
22 summer work travel nonimmigrant.”.

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1 **SEC. 4408. J VISA ELIGIBILITY FOR SPEAKERS OF CERTAIN**
2 **FOREIGN LANGUAGES.**

3 (a) *IN GENERAL.*—Section 101(a)(15)(J) (8 U.S.C.
4 1101(a)(15)(J)) is 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 Direc-
15 tor of the United States Information Agen-
16 cy, for the purpose of teaching, instructing
17 or lecturing, studying, observing, conducting
18 research, consulting, demonstrating special
19 skills, or receiving training and who, if
20 such alien is coming to the United States to
21 participate in a program under which such
22 alien will receive graduate medical edu-
23 cation or training, also meets the require-
24 ments of section 212(j), and the alien spouse
25 and minor children of any such alien if ac-

1 *companying such alien or following to join*
2 *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 in*
11 *the previous year;”.*

12 (b) *REQUIREMENT FOR ANNUAL LIST OF COUN-*
13 *TRIES.—The Secretary of State shall publish an annual list*
14 *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 **SEC. 4409. F-1 VISA FEE.**

18 *Section 281 (8 U.S.C. 1351), as amended by sections*
19 *4105 and 4407, is further amended by adding at the end*
20 *the following:*

21 “(f) *F-1 VISA FEE.—*

22 “(1) *IN GENERAL.—In addition to the fees au-*
23 *thorized under subsection (a), the Secretary of Home-*
24 *land Security shall collect a \$100 fee from each non-*
25 *immigrant admitted under section 101(a)(15)(F)(i).*

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1 *Fees collected under this subsection shall be deposited*
2 *into the Comprehensive Immigration Reform Trust*
3 *Fund established under section 6(a)(1) of the Border*
4 *Security, Economic Opportunity, and Immigration*
5 *Modernization Act.*

6 “(2) *RULEMAKING.—The Secretary of Homeland*
7 *Security, in conjunction with the Secretary of State,*
8 *shall promulgate regulations to ensure that—*

9 “(A) *the fee authorized under paragraph (1)*
10 *is paid on behalf of all J–1 nonimmigrants seek-*
11 *ing entry into the United States;*

12 “(B) *a fee related to the hiring of a J–1*
13 *nonimmigrant is not deducted from the wages or*
14 *other compensation paid to the J–1 non-*
15 *immigrant; and*

16 “(C) *not more than 1 fee is collected per J–*
17 *1 nonimmigrant.”.*

18 **SEC. 4410. PILOT PROGRAM FOR REMOTE B NONIMMIGRANT**

19 **VISA INTERVIEWS.**

20 *Section 222 (8 U.S.C. 1202) is amended by adding*
21 *at the end the following:*

22 “(i)(1) *Except as provided in paragraph (3), the Sec-*
23 *retary of State—*

24 “(A) *shall develop and conduct a pilot program*
25 *for processing visas under section 101(a)(15)(B) using*

1 *secure remote videoconferencing technology as a meth-*
2 *od for conducting any required in person interview of*
3 *applicants; and*

4 *“(B) in consultation with the heads of other Fed-*
5 *eral agencies that use such secure communications,*
6 *shall help ensure the security of the videoconferencing*
7 *transmission and encryption conducted under sub-*
8 *paragraph (A).*

9 *“(2) Not later than 90 days after the termination of*
10 *the pilot program authorized under paragraph (1), the Sec-*
11 *retary of State shall submit to the appropriate committees*
12 *of Congress a report that contains—*

13 *“(A) a detailed description of the results of such*
14 *program, including an assessment of the efficacy, effi-*
15 *ciency, and security of the remote videoconferencing*
16 *technology as a method for conducting visa interviews*
17 *of applicants; and*

18 *“(B) recommendations for whether such program*
19 *should be continued, broadened, or modified.*

20 *“(3) The pilot program authorized under paragraph*
21 *(1) may not be conducted if the Secretary of State deter-*
22 *mines that such program—*

23 *“(A) poses an undue security risk; and*

24 *“(B) cannot be conducted in a manner consistent*
25 *with maintaining security controls.*

1 “(4) If the Secretary of State makes a determination
2 under paragraph (3), the Secretary shall submit a report
3 to the appropriate committees of Congress that describes the
4 reasons for such determination.

5 “(5) In this subsection:

6 “(A) The term ‘appropriate committees of Con-
7 gress’ means—

8 “(i) the Committee on the Judiciary, the
9 Committee on Foreign Relations, and the Com-
10 mittee on Appropriations of the Senate; and

11 “(ii) the Committee on the Judiciary, the
12 Committee on Foreign Affairs, and the Com-
13 mittee on Appropriations of the House of Rep-
14 resentatives.

15 “(B) The term ‘in person interview’ includes
16 interviews conducted using remote video technology.”.

17 **SEC. 4411. PROVIDING CONSULAR OFFICERS WITH ACCESS**
18 **TO ALL TERRORIST DATABASES AND REQUIR-**
19 **ING HEIGHTENED SCRUTINY OF APPLICA-**
20 **TIONS FOR ADMISSION FROM PERSONS LIST-**
21 **ED ON TERRORIST DATABASES.**

22 Section 222 (8 U.S.C. 1202) is amended by adding
23 at the end the following new subsection:

24 “(i) PROVIDING CONSULAR OFFICERS WITH ACCESS
25 TO ALL TERRORIST DATABASES AND REQUIRING HEIGHT-

1 *ENED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM*
2 *PERSONS LISTED ON TERRORIST DATABASES.—*

3 *“(1) ACCESS TO THE SECRETARY OF STATE.—*

4 *“(A) IN GENERAL.—Except as provided in*
5 *subparagraph (B), the Secretary of State shall*
6 *have access to all terrorism records and data-*
7 *bases maintained by any agency or department*
8 *of the United States for the purposes of deter-*
9 *mining whether an applicant for admission*
10 *poses a security threat to the United States.*

11 *“(B) EXCEPTION.—The head of such an*
12 *agency or department may only withhold access*
13 *to terrorism records and databases from the Sec-*
14 *retary of State if such head is able to articulate*
15 *that withholding is necessary to prevent the un-*
16 *authorized disclosure of information that clearly*
17 *identifies, or would reasonably permit ready*
18 *identification of, intelligence or sensitive law en-*
19 *forcement sources, methods, or activities.*

20 *“(2) BIOGRAPHIC AND BIOMETRIC SCREENING.—*

21 *“(A) REQUIREMENT FOR BIOGRAPHIC AND*
22 *BIOMETRIC SCREENING.—Notwithstanding any*
23 *other provision of this Act, the Secretary of State*
24 *shall require every alien applying for admission*
25 *to the United States to submit to biographic and*

1 *biometric screening to determine whether the*
2 *alien's name or biometric information is listed*
3 *in any terrorist watch list or database main-*
4 *tained by any agency or department of the*
5 *United States.*

6 “(B) *EXCLUSIONS.*—*No alien applying for*
7 *a visa to the United States shall be granted such*
8 *visa by a consular officer if the alien's name or*
9 *biometric information is listed in any terrorist*
10 *watch list or database referred to in subpara-*
11 *graph (A) unless—*

12 “(i) *screening of the alien's visa appli-*
13 *cation against interagency counterterrorism*
14 *screening systems which compare the appli-*
15 *cant's information against data in all*
16 *counterterrorism watch lists and databases*
17 *reveals no potentially pertinent links to ter-*
18 *rorism;*

19 “(ii) *the consular officer submits the*
20 *application for further review to the Sec-*
21 *retary of State and the heads of other rel-*
22 *evant agencies, including the Secretary of*
23 *Homeland Security; and*

24 “(iii) *the Secretary of State, after con-*
25 *sultation with the Secretary of Homeland*

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1 *Security and the heads of other relevant*
2 *agencies, certifies that the alien is admis-*
3 *sible to the United States.”.*

4 **SEC. 4412. VISA REVOCATION INFORMATION.**

5 *Section 428 of the Homeland Security Act of 2002 (6*
6 *U.S.C. 236) is amended by adding at the end the following:*

7 “(j) *VISA REVOCATION INFORMATION.—If the Sec-*
8 *retary of State or the Secretary of Homeland Security re-*
9 *voke a visa—*

10 “(1) *the fact of the revocation shall be imme-*
11 *diately provided to the relevant consular officers, law*
12 *enforcement, and terrorist screening databases; and*

13 “(2) *a notice of such revocation shall be posted*
14 *to all Department of Homeland Security port inspec-*
15 *tors and to all consular officers.”.*

16 **SEC. 4413. STATUS FOR CERTAIN BATTERED SPOUSES AND**
17 **CHILDREN.**

18 *(a) NONIMMIGRANT STATUS FOR CERTAIN BATTERED*
19 *SPOUSES AND CHILDREN.—*

20 “(1) *IN GENERAL.—Section 101(a)(51) (8 U.S.C.*
21 *1101(a)(51)), as amended by section*
22 *2305(d)(6)(B)(i)(III), is further amended—*

23 *(A) in subparagraph (E), by striking “or”*
24 *at the end;*

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1 (B) in subparagraph (F), by striking the
2 period at the end and inserting “; or”; and

3 (C) by adding at the end the following:

4 “(G) section 106 as an abused derivative
5 alien.”.

6 (b) *RELIEF FOR ABUSED DERIVATIVE ALIENS.*—

7 (1) *IN GENERAL.*—Section 106 (8 U.S.C. 1105a)
8 is amended to read as follows:

9 “**SEC. 106. RELIEF FOR ABUSED DERIVATIVE ALIENS.**

10 “(a) *ABUSED DERIVATIVE ALIEN DEFINED.*—In this
11 section, the term ‘abused derivative alien’ means an alien
12 who—

13 “(1) is the spouse or child admitted under sec-
14 tion 101(a)(15) or pursuant to a blue card status
15 granted under section 2211 of the Border Security,
16 Economic Opportunity, and Immigration Moderniza-
17 tion Act;

18 “(2) is accompanying or following to join a
19 principal alien admitted under such a section; and

20 “(3) has been subjected to battery or extreme cru-
21 elty by such principal alien.

22 “(b) *RELIEF FOR ABUSED DERIVATIVE ALIENS.*—The
23 Secretary of Homeland Security—

24 “(1) shall grant or extend the status of admission
25 of an abused derivative alien under section 101(a)(15)

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1 *or section 2211 of the Border Security, Economic Op-*
2 *portunity, and Immigration Modernization Act under*
3 *which the principal alien was admitted for the longer*
4 *of—*

5 *“(A) the same period for which the prin-*
6 *cipal was initially admitted; or*

7 *“(B) a period of 3 years;*

8 *“(2) may renew a grant or extension of status*
9 *made under paragraph (1);*

10 *“(3) shall grant employment authorization to an*
11 *abused derivative alien; and*

12 *“(4) may adjust the status of the abused deriva-*
13 *tive alien to that of an alien lawfully admitted for*
14 *permanent residence if—*

15 *“(A) the alien is admissible under section*
16 *212(a) or the Secretary of Homeland Security*
17 *finds the alien’s continued presence in the*
18 *United States is justified on humanitarian*
19 *grounds, to ensure family unity, or is otherwise*
20 *in the public interest; and*

21 *“(B) the status under which the principal*
22 *alien was admitted to the United States would*
23 *have potentially allowed for eventual adjustment*
24 *of status.*

1 “(c) *EFFECT OF TERMINATION OF RELATIONSHIP.*—
 2 *Termination of the relationship with principal alien shall*
 3 *not affect the status of an abused derivative alien under*
 4 *this section if battery or extreme cruelty by the principal*
 5 *alien was 1 central reason for termination of the relation-*
 6 *ship.*

7 “(d) *PROCEDURES.*—*Requests for relief under this sec-*
 8 *tion shall be handled under the procedures that apply to*
 9 *aliens seeking relief under section 204(a)(1)(C).”.*

10 (2) *TABLE OF CONTENTS AMENDMENT.*—*The*
 11 *table of contents in the first section is amended by*
 12 *striking the item relating to section 106 and inserting*
 13 *the following:*

“*Sec. 106. Relief for abused derivative aliens.*”.

14 **SEC. 4414. NONIMMIGRANT CREWMEN LANDING TEMPO-**
 15 **RARILY IN HAWAII.**

16 (a) *IN GENERAL.*—*Section 101(a)(15)(D)(ii) (8*
 17 *U.S.C. 1101(a)(15)(D)(ii)) is amended—*

18 (1) *by striking “Guam” both places that term*
 19 *appears and inserting “Hawaii, Guam,”; and*

20 (2) *by striking the semicolon at the end and in-*
 21 *serting “or some other vessel or aircraft;”.*

22 (b) *TREATMENT OF DEPARTURES.*—*In the adminis-*
 23 *tration of section 101(a)(15)(D)(ii) of the Immigration and*
 24 *Nationality Act (8 U.S.C. 1101(a)(15)(D)(ii)), an alien*
 25 *crewman shall be considered to have departed from Hawaii,*

1 *Guam, or the Commonwealth of the Northern Mariana Is-*
2 *lands after leaving the territorial waters of Hawaii, Guam,*
3 *or the Commonwealth of the Northern Mariana Islands, re-*
4 *spectively, without regard to whether the alien arrives in*
5 *a foreign state before returning to Hawaii, Guam, or the*
6 *Commonwealth of the Northern Mariana Islands.*

7 (c) *CONFORMING AMENDMENT.—The Act entitled “An*
8 *Act to amend the Immigration and Nationality Act to per-*
9 *mit nonimmigrant alien crewmen on fishing vessels to stop*
10 *temporarily at ports in Guam”, approved October 21, 1986*
11 *(Public Law 99–505; 8 U.S.C. 1101 note) is amended by*
12 *striking section 2.*

13 ***Subtitle E—JOLT Act***

14 ***SEC. 4501. SHORT TITLES.***

15 *This subtitle may be cited as the “Jobs Originated*
16 *through Launching Travel Act of 2013” or the “JOLT Act*
17 *of 2013”.*

18 ***SEC. 4502. PREMIUM PROCESSING.***

19 *Section 221 (8 U.S.C. 1201) is amended by inserting*
20 *at the end the following:*

21 “(j) *PREMIUM PROCESSING.—*

22 “(1) *PILOT PROCESSING SERVICE.—Recognizing*
23 *that the best solution for expedited processing is low*
24 *interview wait times for all applicants, the Secretary*
25 *of State shall nevertheless establish, on a limited, pilot*

1 *basis only, a fee-based premium processing service to*
2 *expedite interview appointments. In establishing a*
3 *pilot processing service, the Secretary may—*

4 “(A) *determine the consular posts at which*
5 *the pilot service will be available;*

6 “(B) *establish the duration of the pilot serv-*
7 *ice;*

8 “(C) *define the terms and conditions of the*
9 *pilot service, with the goal of expediting visa ap-*
10 *pointments and the interview process for those*
11 *electing to pay said fee for the service; and*

12 “(D) *resources permitting, during the pilot*
13 *service, consider the addition of consulates in lo-*
14 *cations advantageous to foreign policy objectives*
15 *or in highly populated locales.*

16 “(2) *FEES.—*

17 “(A) *AUTHORITY TO COLLECT.—The Sec-*
18 *retary of State is authorized to collect, and set*
19 *the amount of, a fee imposed for the premium*
20 *processing service. The Secretary of State shall*
21 *set the fee based on all relevant considerations*
22 *including, the cost of expedited service.*

23 “(B) *USE OF FEES.—Fees collected under*
24 *the authority of subparagraph (A) shall be depos-*
25 *ited as an offsetting collection to any Depart-*

1 *ment of State appropriation, to recover the costs*
2 *of providing consular services. Such fees shall re-*
3 *main available for obligation until expended.*

4 “(C) *RELATIONSHIP TO OTHER FEES.—*
5 *Such fee is in addition to any existing fee cur-*
6 *rently being collected by the Department of*
7 *State.*

8 “(D) *NONREFUNDABLE.—Such fee will be*
9 *nonrefundable to the applicant.*

10 “(3) *DESCRIPTION OF PREMIUM PROCESSING.—*
11 *Premium processing pertains solely to the expedited*
12 *scheduling of a visa interview. Utilizing the premium*
13 *processing service for an expedited interview appoint-*
14 *ment does not establish the applicant’s eligibility for*
15 *a visa. The Secretary of State shall, if possible, in-*
16 *form applicants utilizing the premium processing of*
17 *potential delays in visa issuance due to additional*
18 *screening requirements, including necessary security-*
19 *related checks and clearances.*

20 “(4) *REPORT TO CONGRESS.—*

21 “(A) *REQUIREMENT FOR REPORT.—Not*
22 *later than 18 months after the date of the enact-*
23 *ment of the JOLT Act of 2013, the Secretary of*
24 *State shall submit to the appropriate committees*

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1 *of Congress a report on the results of the pilot*
2 *service carried out under this section.*

3 “(B) *APPROPRIATE COMMITTEES OF CON-*
4 *GRESS DEFINED.*—*In this paragraph, the term*
5 *‘appropriate committees of Congress’ means—*

6 *“(i) the Committee on the Judiciary,*
7 *the Committee on Foreign Relations, and*
8 *the Committee on Appropriations of the*
9 *Senate; and*

10 *“(ii) the Committee on the Judiciary,*
11 *the Committee on Foreign Affairs, and the*
12 *Committee on Appropriations of the House*
13 *of Representatives.”*

14 **SEC. 4503. ENCOURAGING CANADIAN TOURISM TO THE**
15 **UNITED STATES.**

16 *Section 214 (8 U.S.C. 1184), as amended by sections*
17 *3609, 4233, and 4405, is further amended by adding at the*
18 *end the following:*

19 “(v) *CANADIAN RETIREES.*—

20 “(1) *IN GENERAL.*—*The Secretary of Homeland*
21 *Security may admit as a visitor for pleasure as de-*
22 *scribed in section 101(a)(15)(B) any alien for a pe-*
23 *riod not to exceed 240 days, if the alien demonstrates,*
24 *to the satisfaction of the Secretary, that the alien—*

25 “(A) *is a citizen of Canada;*

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1 “(B) is at least 55 years of age;

2 “(C) maintains a residence in Canada;

3 “(D) owns a residence in the United States
4 or has signed a rental agreement for accommoda-
5 tions in the United States for the duration of the
6 alien’s stay in the United States;

7 “(E) is not inadmissible under section 212;

8 “(F) is not described in any ground of de-
9 portability under section 237;

10 “(G) will not engage in employment or
11 labor for hire in the United States; and

12 “(H) will not seek any form of assistance or
13 benefit described in section 403(a) of the Per-
14 sonal Responsibility and Work Opportunity Rec-
15 onciliation Act of 1996 (8 U.S.C. 1613(a)).

16 “(2) SPOUSE.—The spouse of an alien described
17 in paragraph (1) may be admitted under the same
18 terms as the principal alien if the spouse satisfies the
19 requirements of paragraph (1), other than subpara-
20 graphs (B) and (D).

21 “(3) IMMIGRANT INTENT.—In determining eligi-
22 bility for admission under this subsection, mainte-
23 nance of a residence in the United States shall not be
24 considered evidence of intent by the alien to abandon
25 the alien’s residence in Canada.

1 “(4) *PERIOD OF ADMISSION.*—During any single
2 365-day period, an alien may be admitted as de-
3 scribed in section 101(a)(15)(B) pursuant to this sub-
4 section for a period not to exceed 240 days, beginning
5 on the date of admission. Unless an extension is ap-
6 proved by the Secretary, periods of time spent outside
7 the United States during such 240-day period shall
8 not toll the expiration of such 240-day period.”.

9 **SEC. 4504. RETIREE VISA.**

10 (a) *NONIMMIGRANT STATUS.*—Section 101(a)(15), as
11 amended, is further amended by inserting after subpara-
12 graph (X) the following:

13 “(Y) subject to section 214(w), an alien
14 who, after the date of the enactment of the *JOLT*
15 Act of 2013—

16 “(i)(I) uses at least \$500,000 in cash
17 to purchase 1 or more residences in the
18 United States, which each sold for more
19 than 100 percent of the most recent ap-
20 praised value of such residence, as deter-
21 mined by the property assessor in the city
22 or county in which the residence is located;

23 “(II) maintains ownership of residen-
24 tial property in the United States worth at
25 least \$500,000 during the entire period the

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1 *alien remains in the United States as a*
2 *nonimmigrant described in this subpara-*
3 *graph; and*

4 *“(III) resides for more than 180 days*
5 *per year in a residence in the United States*
6 *that is worth at least \$250,000; and*

7 *“(ii) the alien spouse and children of*
8 *the alien described in clause (i) if accom-*
9 *panying or following to join the alien.”.*

10 *(b) VISA APPLICATION PROCEDURES.—Section 214 (8*
11 *U.S.C. 1184), as amended by sections 3609, 4233, 4405,*
12 *and 4503, is further amended by adding at the end the fol-*
13 *lowing:*

14 *“(w) VISAS OF NONIMMIGRANTS DESCRIBED IN SEC-*
15 *TION 101(a)(15)(Y).—*

16 *“(1) The Secretary of Homeland Security shall*
17 *authorize the issuance of a nonimmigrant visa to any*
18 *alien described in section 101(a)(15)(Y) who submits*
19 *a petition to the Secretary that—*

20 *“(A) demonstrates, to the satisfaction of the*
21 *Secretary, that the alien—*

22 *“(i) has purchased a residence in the*
23 *United States that meets the criteria set*
24 *forth in section 101(a)(15)(Y)(i);*

25 *“(ii) is at least 55 years of age;*

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1 “(iii) possesses health insurance cov-
2 erage;

3 “(iv) is not inadmissible under section
4 212; and

5 “(v) will comply with the terms set
6 forth in paragraph (2); and

7 “(B) includes payment of a fee in an
8 amount equal to \$1,000.

9 “(2) An alien who is issued a visa under this
10 subsection—

11 “(A) shall reside in the United States at a
12 residence that meets the criteria set forth in sec-
13 tion 101(a)(15)(Y)(i) for more than 180 days per
14 year;

15 “(B) is not authorized to engage in employ-
16 ment in the United States, except for employ-
17 ment that is directly related to the management
18 of the residential property described in section
19 101(Y)(i)(II);

20 “(C) is not eligible for any form of assist-
21 ance or benefit described in section 403(a) of the
22 Personal Responsibility and Work Opportunity
23 Reconciliation Act of 1996 (8 U.S.C. 1613(a));
24 and

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1 “(D) may renew such visa every 3 years
2 under the same terms and conditions.”.

3 (c) *USE OF FEE.*—Fees collected under section
4 214(w)(1)(B) of the Immigration and Nationality Act, as
5 added by subsection (b), shall be deposited in the Com-
6 prehensive Immigration Reform Trust Fund established
7 under section 6(a)(1).

8 **SEC. 4505. INCENTIVES FOR FOREIGN VISITORS VISITING**
9 **THE UNITED STATES DURING LOW PEAK SEA-**
10 **SONS.**

11 *The Secretary of State shall make publically available,*
12 *on a monthly basis, historical data, for the previous 2 years,*
13 *regarding the availability of visa appointments for each*
14 *visa processing post, to allow applicants to identify periods*
15 *of low demand, when wait times tend to be lower.*

16 **SEC. 4506. VISA WAIVER PROGRAM ENHANCED SECURITY**
17 **AND REFORM.**

18 (a) *DEFINITIONS.*—Section 217(c)(1) (8 U.S.C.
19 1187(c)(1)) is amended to read as follows:

20 “(1) *AUTHORITY TO DESIGNATE; DEFINITIONS.*—

21 “(A) *AUTHORITY TO DESIGNATE.*—The Sec-
22 retary of Homeland Security, in consultation
23 with the Secretary of State, may designate any
24 country as a program country if that country
25 meets the requirements under paragraph (2).

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1 *periods of authorized stay ended*
2 *during a fiscal year but who re-*
3 *remained unlawfully in the United*
4 *States beyond such periods; to*

5 *“(bb) the number of nation-*
6 *als of that country who were ad-*
7 *mitted to the United States on the*
8 *basis of a nonimmigrant visa*
9 *under section 101(a)(15)(B) whose*
10 *periods of authorized stay ended*
11 *during that fiscal year.*

12 *“(II) CONTINUING DESIGNA-*
13 *TION.—The term ‘overstay rate’ means,*
14 *for each fiscal year after initial des-*
15 *ignation under this section with re-*
16 *spect to a country, the ratio of—*

17 *“(aa) the number of nation-*
18 *als of that country who were ad-*
19 *mitted to the United States under*
20 *this section or on the basis of a*
21 *nonimmigrant visa under section*
22 *101(a)(15)(B) whose periods of*
23 *authorized stay ended during a*
24 *fiscal year but who remained un-*

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1 *lawfully in the United States be-*
2 *yond such periods; to*

3 *“(bb) the number of nation-*
4 *als of that country who were ad-*
5 *mitted to the United States under*
6 *this section or on the basis of a*
7 *nonimmigrant visa under section*
8 *101(a)(15)(B) whose periods of*
9 *authorized stay ended during that*
10 *fiscal year.*

11 *“(III) COMPUTATION OF OVER-*
12 *STAY RATE.—In determining the over-*
13 *stay rate for a country, the Secretary*
14 *of Homeland Security may utilize in-*
15 *formation from any available data-*
16 *bases to ensure the accuracy of such*
17 *rate.*

18 *“(iii) PROGRAM COUNTRY.—The term*
19 *‘program country’ means a country des-*
20 *ignated as a program country under sub-*
21 *paragraph (A).”.*

22 *(b) TECHNICAL AND CONFORMING AMENDMENTS.—*
23 *Section 217 (8 U.S.C. 1187) is amended—*

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1 (1) *by striking “Attorney General” each place*
2 *the term appears (except in subsection (c)(11)(B))*
3 *and inserting “Secretary of Homeland Security”; and*

4 (2) *in subsection (c)—*

5 (A) *in paragraph (2)(C)(iii), by striking*
6 *“Committee on the Judiciary and the Committee*
7 *on International Relations of the House of Rep-*
8 *resentatives and the Committee on the Judiciary*
9 *and the Committee on Foreign Relations of the*
10 *Senate” and inserting “appropriate congres-*
11 *sional committees”;*

12 (B) *in paragraph (5)(A)(i)(III), by striking*
13 *“Committee on the Judiciary, the Committee on*
14 *Foreign Affairs, and the Committee on Home-*
15 *land Security, of the House of Representatives*
16 *and the Committee on the Judiciary, the Com-*
17 *mittee on Foreign Relations, and the Committee*
18 *on Homeland Security and Governmental Af-*
19 *airs of the Senate” and inserting “appropriate*
20 *congressional committees”; and*

21 (C) *in paragraph (7), by striking subpara-*
22 *graph (E).*

23 (c) *DESIGNATION OF PROGRAM COUNTRIES BASED ON*
24 *OVERSTAY RATES.—*

1 (1) *IN GENERAL.*—Section 217(c)(2)(A) (8
2 *U.S.C. 1187(c)(2)(A)*) is amended to read as follows:

3 “(A) *GENERAL NUMERICAL LIMITATIONS.*—

4 “(i) *LOW NONIMMIGRANT VISA RE-*
5 *FUSAL RATE.*—*The percentage of nationals*
6 *of that country refused nonimmigrant visas*
7 *under section 101(a)(15)(B) during the pre-*
8 *vious full fiscal year was not more than 3*
9 *percent of the total number of nationals of*
10 *that country who were granted or refused*
11 *nonimmigrant visas under such section dur-*
12 *ing such year.*

13 “(ii) *LOW NONIMMIGRANT OVERSTAY*
14 *RATE.*—*The overstay rate for that country*
15 *was not more than 3 percent during the*
16 *previous fiscal year.”.*

17 (2) *QUALIFICATION CRITERIA.*—Section
18 *217(c)(3) (8 U.S.C. 1187(c)(3))* is amended to read as
19 *follows:*

20 “(3) *QUALIFICATION CRITERIA.*—*After designa-*
21 *tion as a program country under section 217(c)(2), a*
22 *country may not continue to be designated as a pro-*
23 *gram country unless the Secretary of Homeland Secu-*
24 *rity, in consultation with the Secretary of State, de-*

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1 *termines, pursuant to the requirements under para-*
2 *graph (5), that the designation will be continued.”.*

3 (3) *INITIAL PERIOD.*—Section 217(c) (8 U.S.C.
4 1187(c)) is amended by striking paragraph (4).

5 (4) *CONTINUING DESIGNATION.*—Section
6 217(c)(5)(A)(i)(II) (8 U.S.C. 1187(c)(5)(A)(i)(II)) is
7 amended to read as follows:

8 “(II) shall determine,
9 based upon the evaluation in
10 subclause (I), whether any
11 such designation under sub-
12 section (d) or (f), or proba-
13 tion under subsection (f),
14 ought to be continued or ter-
15 minated;”.

16 (5) *COMPUTATION OF VISA REFUSAL RATES; JU-*
17 *DICIAL REVIEW.*—Section 217(c)(6) (8 U.S.C.
18 1187(c)(6)) is amended to read as follows:

19 “(6) *COMPUTATION OF VISA REFUSAL RATES AND*
20 *JUDICIAL REVIEW.*—

21 “(A) *COMPUTATION OF VISA REFUSAL*
22 *RATES.*—For purposes of determining the eligi-
23 bility of a country to be designated as a program
24 country, the calculation of visa refusal rates
25 shall not include any visa refusals which incor-

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1 *porate any procedures based on, or are otherwise*
2 *based on, race, sex, or disability, unless otherwise*
3 *specifically authorized by law or regulation.*

4 “(B) *JUDICIAL REVIEW.*—No court shall
5 *have jurisdiction under this section to review*
6 *any visa refusal, the Secretary of State’s com-*
7 *putation of a visa refusal rate, the Secretary of*
8 *Homeland Security’s computation of an overstay*
9 *rate, or the designation or nondesignation of a*
10 *country as a program country.”*

11 (6) *VISA WAIVER INFORMATION.*—Section
12 *217(c)(7) (8 U.S.C. 1187(c)(7)), as amended by sub-*
13 *section (b)(2)(C), is further amended—*

14 (A) *by striking subparagraphs (B) through*
15 (D); and

16 (B) *by striking “WAIVER INFORMATION.—”*
17 *and all that follows through “In refusing” and*
18 *inserting “WAIVER INFORMATION.—In refusing”.*

19 (7) *WAIVER AUTHORITY.*—Section 217(c)(8) (8
20 *U.S.C. 1187(c)(8)) is amended to read as follows:*

21 “(8) *WAIVER AUTHORITY.*—The Secretary of
22 *Homeland Security, in consultation with the Sec-*
23 *retary of State, may waive the application of para-*
24 *graph (2)(A)(i) for a country if—*

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1 “(A) the country meets all other require-
2 ments of paragraph (2);

3 “(B) the Secretary of Homeland Security
4 determines that the totality of the country’s secu-
5 rity risk mitigation measures provide assurance
6 that the country’s participation in the program
7 would not compromise the law enforcement, secu-
8 rity interests, or enforcement of the immigration
9 laws of the United States;

10 “(C) there has been a general downward
11 trend in the percentage of nationals of the coun-
12 try refused nonimmigrant visas under section
13 101(a)(15)(B);

14 “(D) the country consistently cooperated
15 with the Government of the United States on
16 counterterrorism initiatives, information shar-
17 ing, preventing terrorist travel, and extradition
18 to the United States of individuals (including
19 the country’s own nationals) who commit crimes
20 that violate United States law before the date of
21 its designation as a program country, and the
22 Secretary of Homeland Security and the Sec-
23 retary of State assess that such cooperation is
24 likely to continue; and

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1 “(E) the percentage of nationals of the
2 country refused a nonimmigrant visa under sec-
3 tion 101(a)(15)(B) during the previous full fiscal
4 year was not more than 10 percent of the total
5 number of nationals of that country who were
6 granted or refused such nonimmigrant visas.”.

7 (d) *TERMINATION OF DESIGNATION; PROBATION.*—
8 Section 217(f) (8 U.S.C. 1187(f)) is amended to read as
9 follows:

10 “(f) *TERMINATION OF DESIGNATION; PROBATION.*—

11 “(1) *DEFINITIONS.*—In this subsection:

12 “(A) *PROBATIONARY PERIOD.*—The term
13 ‘probationary period’ means the fiscal year in
14 which a probationary country is placed in pro-
15 bationary status under this subsection.

16 “(B) *PROGRAM COUNTRY.*—The term ‘pro-
17 gram country’ has the meaning given that term
18 in subsection (c)(1)(B).

19 “(2) *DETERMINATION, NOTICE, AND INITIAL PRO-*
20 *BATIONARY PERIOD.*—

21 “(A) *DETERMINATION OF PROBATIONARY*
22 *STATUS AND NOTICE OF NONCOMPLIANCE.*—As
23 part of each program country’s periodic evalua-
24 tion required by subsection (c)(5)(A), the Sec-
25 retary of Homeland Security shall determine

1 *whether a program country is in compliance*
2 *with the program requirements under subpara-*
3 *graphs (A)(ii) through (F) of subsection (c)(2).*

4 “(B) *INITIAL PROBATIONARY PERIOD.—If*
5 *the Secretary of Homeland Security determines*
6 *that a program country is not in compliance*
7 *with the program requirements under subpara-*
8 *graphs (A)(ii) through (F) of subsection (c)(2),*
9 *the Secretary of Homeland Security shall place*
10 *the program country in probationary status for*
11 *the fiscal year following the fiscal year in which*
12 *the periodic evaluation is completed.*

13 “(3) *ACTIONS AT THE END OF THE INITIAL PRO-*
14 *BATIONARY PERIOD.—At the end of the initial proba-*
15 *tionary period of a country under paragraph (2)(B),*
16 *the Secretary of Homeland Security shall take 1 of*
17 *the following actions:*

18 “(A) *COMPLIANCE DURING INITIAL PROBA-*
19 *TIONARY PERIOD.—If the Secretary determines*
20 *that all instances of noncompliance with the pro-*
21 *gram requirements under subparagraphs (A)(ii)*
22 *through (F) of subsection (c)(2) that were identi-*
23 *fied in the latest periodic evaluation have been*
24 *remedied by the end of the initial probationary*

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1 *period, the Secretary shall end the country's pro-*
2 *probationary period.*

3 “(B) *NONCOMPLIANCE DURING INITIAL PRO-*
4 *BATIONARY PERIOD.—If the Secretary determines*
5 *that any instance of noncompliance with the*
6 *program requirements under subparagraphs*
7 *(A)(ii) through (F) of subsection (c)(2) that were*
8 *identified in the latest periodic evaluation has*
9 *not been remedied by the end of the initial pro-*
10 *probationary period—*

11 “(i) *the Secretary may terminate the*
12 *country's participation in the program; or*

13 “(ii) *on an annual basis, the Secretary*
14 *may continue the country's probationary*
15 *status if the Secretary, in consultation with*
16 *the Secretary of State, determines that the*
17 *country's continued participation in the*
18 *program is in the national interest of the*
19 *United States.*

20 “(4) *ACTIONS AT THE END OF ADDITIONAL PRO-*
21 *BATIONARY PERIODS.—At the end of all probationary*
22 *periods granted to a country pursuant to paragraph*
23 *(3)(B)(ii), the Secretary shall take 1 of the following*
24 *actions:*

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1 “(A) *COMPLIANCE DURING ADDITIONAL PE-*
2 *RIOD.—The Secretary shall end the country’s*
3 *probationary status if the Secretary determines*
4 *during the latest periodic evaluation required by*
5 *subsection (c)(5)(A) that the country is in com-*
6 *pliance with the program requirements under*
7 *subparagraphs (A)(ii) through (F) of subsection*
8 *(c)(2).*

9 “(B) *NONCOMPLIANCE DURING ADDITIONAL*
10 *PERIODS.—The Secretary shall terminate the*
11 *country’s participation in the program if the*
12 *Secretary determines during the latest periodic*
13 *evaluation required by subsection (c)(5)(A) that*
14 *the program country continues to be in non-*
15 *compliance with the program requirements*
16 *under subparagraphs (A)(ii) through (F) of sub-*
17 *section (c)(2).*

18 “(5) *EFFECTIVE DATE.—The termination of a*
19 *country’s participation in the program under para-*
20 *graph (3)(B) or (4)(B) shall take effect on the first*
21 *day of the first fiscal year following the fiscal year in*
22 *which the Secretary determines that such participa-*
23 *tion shall be terminated. Until such date, nationals of*
24 *the country shall remain eligible for a waiver under*
25 *subsection (a).*

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1 “(6) *TREATMENT OF NATIONALS AFTER TERMI-*
2 *NATION.—For purposes of this subsection and sub-*
3 *section (d)—*

4 “(A) *nationals of a country whose designa-*
5 *tion is terminated under paragraph (3) or (4)*
6 *shall remain eligible for a waiver under sub-*
7 *section (a) until the effective date of such termi-*
8 *nation; and*

9 “(B) *a waiver under this section that is*
10 *provided to such a national for a period de-*
11 *scribed in subsection (a)(1) shall not, by such*
12 *termination, be deemed to have been rescinded or*
13 *otherwise rendered invalid, if the waiver is*
14 *granted prior to such termination.*

15 “(7) *CONSULTATIVE ROLE OF THE SECRETARY*
16 *OF STATE.—In this subsection, references to subpara-*
17 *graphs (A)(ii) through (F) of subsection (c)(2) and*
18 *subsection (c)(5)(A) carry with them the consultative*
19 *role of the Secretary of State as provided in those*
20 *provisions.”.*

21 “(e) *REVIEW OF OVERSTAY TRACKING METHOD-*
22 *LOGY.—Not later than 180 days after the date of the enact-*
23 *ment of this Act, the Comptroller General of the United*
24 *States shall conduct a review of the methods used by the*
25 *Secretary—*

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1 (1) *to track aliens entering and exiting the*
2 *United States; and*

3 (2) *to detect any such alien who stays longer*
4 *than such alien's period of authorized admission.*

5 (f) *EVALUATION OF ELECTRONIC SYSTEM FOR TRAVEL*
6 *AUTHORIZATION.*—*Not later than 90 days after the date of*
7 *the enactment of this Act, the Secretary shall submit to Con-*
8 *gress—*

9 (1) *an evaluation of the security risks of aliens*
10 *who enter the United States without an approved*
11 *Electronic System for Travel Authorization*
12 *verification; and*

13 (2) *a description of any improvements needed to*
14 *minimize the number of aliens who enter the United*
15 *States without the verification described in paragraph*
16 *(1).*

17 (g) *SENSE OF CONGRESS ON PRIORITY FOR REVIEW*
18 *OF PROGRAM COUNTRIES.*—*It is the sense of Congress that*
19 *the Secretary, in the process of conducting evaluations of*
20 *countries participating in the visa waiver program under*
21 *section 217 of the Immigration and Nationality Act (8*
22 *U.S.C. 1187), should prioritize the reviews of countries in*
23 *which circumstances indicate that such a review is nec-*
24 *essary or desirable.*

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1 (h) *ELIGIBILITY OF HONG KONG SPECIAL ADMINIS-*
2 *TRATIVE REGION FOR DESIGNATION FOR PARTICIPATION IN*
3 *VISA WAIVER PROGRAM FOR CERTAIN VISITORS TO THE*
4 *UNITED STATES.*—Section 217(c) (8 U.S.C. 1187(c)) is
5 amended by adding at the end the following new paragraph:

6 “(12) *ELIGIBILITY OF CERTAIN REGION FOR*
7 *DESIGNATION AS PROGRAM COUNTRY.*—The Hong
8 Kong Special Administrative Region of the People’s
9 Republic of China—

10 “(A) shall be eligible for designation as a
11 program country for purposes of this subsection;
12 and

13 “(B) may be designated as a program coun-
14 try for purposes of this subsection if such region
15 meets requirements applicable for such designa-
16 tion in this subsection.”.

17 **SEC. 4507. EXPEDITING ENTRY FOR PRIORITY VISITORS.**

18 Section 7208(k)(4) of the Intelligence Reform and Ter-
19 rorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(4)) is
20 amended to read as follows:

21 “(4) *EXPEDITING ENTRY FOR PRIORITY VISI-*
22 *TORS.*—

23 “(A) *IN GENERAL.*—The Secretary of Home-
24 land Security may expand the enrollment across
25 registered traveler programs to include eligible

1 *individuals employed by international organiza-*
2 *tions, selected by the Secretary, which maintain*
3 *strong working relationships with the United*
4 *States.*

5 *“(B) REQUIREMENTS.—An individual may*
6 *not be enrolled in a registered traveler program*
7 *unless—*

8 *“(i) the individual is sponsored by an*
9 *international organization selected by the*
10 *Secretary under subparagraph (A); and*

11 *“(ii) the government that issued the*
12 *passport that the individual is using has*
13 *entered into a Trusted Traveler Arrange-*
14 *ment with the Department of Homeland Se-*
15 *curity to participate in a registered traveler*
16 *program.*

17 *“(C) SECURITY REQUIREMENTS.—An indi-*
18 *vidual may not be enrolled in a registered trav-*
19 *eler program unless the individual has success-*
20 *fully completed all applicable security require-*
21 *ments established by the Secretary, including co-*
22 *operation from the applicable foreign govern-*
23 *ment, to ensure that the individual does not pose*
24 *a risk to the United States.*

1 “(D) *DISCRETION.*—*Except as provided in*
2 *subparagraph (E), the Secretary shall retain*
3 *unreviewable discretion to offer or revoke enroll-*
4 *ment in a registered traveler program to any in-*
5 *dividual.*

6 “(E) *INELIGIBLE TRAVELERS.*—*An indi-*
7 *vidual who is a citizen of a state sponsor of ter-*
8 *rorism (as defined in section 301(13) of the Com-*
9 *prehensive Iran Sanctions, Accountability, and*
10 *Divestment Act of 2010 (22 U.S.C. 8541(13))*
11 *may not be enrolled in a registered traveler pro-*
12 *gram.”.*

13 **SEC. 4508. VISA PROCESSING.**

14 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
15 *sion of law and not later than 90 days after the date of*
16 *the enactment of this Act, the Secretary of State shall—*

17 (1) *require United States diplomatic and con-*
18 *sular missions—*

19 (A) *to conduct visa interviews for non-*
20 *immigrant visa applications determined to re-*
21 *quire a consular interview in an expeditious*
22 *manner, consistent with national security re-*
23 *quirements, and in recognition of resource allo-*
24 *cation considerations, such as the need to ensure*

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1 *provision of consular services to citizens of the*
2 *United States;*

3 *(B) to set a goal of interviewing 80 percent*
4 *of all nonimmigrant visa applicants, worldwide,*
5 *within 3 weeks of receipt of application, subject*
6 *to the conditions outlined in subparagraph (A);*
7 *and*

8 *(C) to explore expanding visa processing ca-*
9 *capacity in China and Brazil, with the goal of*
10 *maintaining interview wait times under 15 work*
11 *days on a consistent, year-round basis, recog-*
12 *nizing that demand can spike suddenly and un-*
13 *predictably and that the first priority of United*
14 *States missions abroad is the protection of citi-*
15 *zens of the United States; and*

16 *(2) submit to the appropriate committees of Con-*
17 *gress a detailed strategic plan that describes the re-*
18 *sources needed to carry out paragraph (1)(A).*

19 *(b) APPROPRIATE COMMITTEES OF CONGRESS.—In*
20 *this section, the term “appropriate committees of Congress”*
21 *means—*

22 *(1) the Committee on the Judiciary, the Com-*
23 *mittee on Foreign Relations, and the Committee on*
24 *Appropriations of the Senate; and*

1 (2) *the Committee on the Judiciary, the Com-*
2 *mittee on Foreign Affairs, and the Committee on Ap-*
3 *propriations of the House of Representatives.*

4 (c) *SEMI-ANNUAL REPORT.—Not later than 30 days*
5 *after the end of the first 6 months after the implementation*
6 *of subsection (a), and not later than 30 days after the end*
7 *of each subsequent quarter, the Secretary of State shall sub-*
8 *mit to the appropriate committees of Congress a report that*
9 *provides—*

10 (1) *data substantiating the efforts of the Sec-*
11 *retary of State to meet the requirements and goals de-*
12 *scribed in subsection (a);*

13 (2) *any factors that have negatively impacted the*
14 *efforts of the Secretary to meet such requirements and*
15 *goals; and*

16 (3) *any measures that the Secretary plans to im-*
17 *plement to meet such requirements and goals.*

18 (d) *SAVINGS PROVISION.—*

19 (1) *IN GENERAL.—Nothing in subsection (a)*
20 *may be construed to affect a consular officer's author-*
21 *ity—*

22 (A) *to deny a visa application under sec-*
23 *tion 221(g) of the Immigration and Nationality*
24 *Act (8 U.S.C. 1201(g)); or*

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1 (B) to initiate any necessary or appropriate
2 security-related check or clearance.

3 (2) *SECURITY CHECKS.*—The completion of a se-
4 curity-related check or clearance shall not be subject
5 to the time limits set out in subsection (a).

6 **SEC. 4509. B VISA FEE.**

7 Section 281 (8 U.S.C. 1351), as amended by sections
8 4105, 4407, and 4408, is further amended by adding at the
9 end the following:

10 “(g) *B VISA FEE.*—In addition to the fees authorized
11 under subsection (a), the Secretary of Homeland Security
12 shall collect a \$5 fee from each nonimmigrant admitted
13 under section 101(a)(15)(B). Fees collected under this sub-
14 section shall be deposited into the Comprehensive Immigra-
15 tion Reform Trust Fund established under section 6(a)(1)
16 of the Illegal Immigration Reform and Immigrant Respon-
17 sibility Act of 1996.”.

18 ***Subtitle F—Reforms to the H-2B***
19 ***Visa Program***

20 **SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP-**
21 **TION TO H-2B NUMERICAL LIMITATION.**

22 (a) *IN GENERAL.*—

23 (1) *IN GENERAL.*—Subparagraph (A) of para-
24 graph (10) of section 214(g) (8 U.S.C. 1184(g)), as re-
25 designated by section 4101(a)(3), is amended by strik-

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1 *ing “fiscal year 2004, 2005, or 2006 shall not again*
2 *be counted toward such limitation during fiscal year*
3 *2007.” and inserting “fiscal year 2013 shall not*
4 *again be counted toward such limitation during fiscal*
5 *years 2014 through 2018.”.*

6 (2) *EFFECTIVE PERIOD.—The amendment made*
7 *by paragraph (1) shall be effective during the period*
8 *beginning on the effective date described in subsection*
9 *(c) and ending on September 30, 2018.*

10 (b) *TECHNICAL AND CLARIFYING AMENDMENTS.—*

11 (1) *NONIMMIGRANT STATUS.—Section*
12 *101(a)(15)(P) (8 U.S.C. 1101(a)(15)(P)) is amend-*
13 *ed—*

14 (A) *in clause (iii), by striking “or” at the*
15 *end;*

16 (B) *in clause (iv), by striking “clause (i),*
17 *(ii), or (iii),” and inserting “clause (i), (ii),*
18 *(iii), or (iv)”;*

19 (C) *by redesignating clause (iv) as clause*
20 *(v); and*

21 (D) *by inserting after clause (iii) the fol-*
22 *lowing:*

23 *“(iv) is a ski instructor, who has been*
24 *certified as a level I, II, or III ski and*
25 *snowboard instructor by the Professional*

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1 *Ski Instructors of America or the American*
2 *Association of Snowboard Instructors, or re-*
3 *ceived an equivalent certification in the*
4 *alien's country of origin, and is seeking to*
5 *enter the United States temporarily to per-*
6 *form instructing services; or”.*

7 (2) *AUTHORIZED PERIOD OF STAY; NUMERICAL*
8 *LIMITATION.—Section 214(a)(2)(B) (8 U.S.C.*
9 *1184(a)(2)(B)) is amended in the second sentence—*

10 (A) *by inserting “or ski instructors” after*
11 *“athletes”; and*

12 (B) *by inserting “or ski instructor” after*
13 *“athlete”.*

14 (3) *CONSTRUCTION.—Nothing in the amend-*
15 *ments made by this subsection may be construed as*
16 *preventing an alien who is a ski instructor from ob-*
17 *taining nonimmigrant status under section*
18 *101(a)(15)(H)(ii)(b) of the Immigration and Nation-*
19 *ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) if such*
20 *alien is otherwise qualified for such status.*

21 (c) *EFFECTIVE DATE.—The amendment made by sub-*
22 *section (a) shall take effect as if enacted on January 1,*
23 *2013.*

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1 **SEC. 4602. OTHER REQUIREMENTS FOR H-2B EMPLOYERS.**

2 (a) *IN GENERAL.*—Section 214 (8 U.S.C. 1184), as
3 amended by sections 3609, 4233, 4405, 4503, and 4504, is
4 further amended by adding at the end the following:

5 “(x) *REQUIREMENTS FOR H-2B EMPLOYERS.*—

6 “(1) *H-2B NONIMMIGRANT DEFINED.*—In this
7 subsection the term ‘H-2B nonimmigrant’ means an
8 alien admitted to the United States pursuant to sec-
9 tion 101(a)(15)(H)(ii)(B).

10 “(2) *NON-DISPLACEMENT OF UNITED STATES*
11 *WORKERS.*—An employer who seeks to employ an H-
12 2B nonimmigrant admitted in an occupational clas-
13 sification shall certify and attest that the employer
14 did not displace and will not displace a United
15 States worker employed by the employer in the same
16 metropolitan statistical area where such non-
17 immigrant will be hired within the period beginning
18 90 days before the start date and ending on the end
19 date for which the employer is seeking the services of
20 such nonimmigrant as specified on an application for
21 labor certification under this Act.

22 “(3) *TRANSPORTATION COSTS.*—The employer
23 shall pay the transportation costs, including reason-
24 able subsistence costs during the period of travel, for
25 an H-2B nonimmigrant hired by the employer—

1 “(A) from the place of recruitment to the
2 place of such nonimmigrant’s employment; and

3 “(B) from the place of employment to such
4 nonimmigrant’s place of permanent residence or
5 a subsequent worksite.

6 “(4) *PAYMENT OF FEES.*—A fee related to the
7 hiring of an H-2B nonimmigrant required to be paid
8 by an employer under this Act shall be paid by the
9 employer and may not be deducted from the wages or
10 other compensation paid to an H-2B nonimmigrant.

11 “(5) *H-2B NONIMMIGRANT LABOR CERTIFI-*
12 *CATION APPLICATION FEE.*—

13 “(A) *IN GENERAL.*—To recover costs of car-
14 rying out labor certification activities under the
15 H-2B program, the Secretary of Labor shall im-
16 pose a \$500 fee on an employer that submits an
17 application for an employment certification for
18 aliens granted H-2B nonimmigrant status to the
19 Secretary of Labor under this subparagraph on
20 or after the date that is 30 days after the date
21 of the enactment of the *Illegal Immigration Re-*
22 *form and Immigrant Responsibility Act of*
23 *1996.*”.

24 “(B) *USE OF FEES.*—The fees collected
25 under subparagraph (A) shall be deposited in the

1 *Comprehensive Immigration Reform Trust Fund*
2 *established under section 6 of the Illegal Immigra-*
3 *tion Reform and Immigrant Responsibility*
4 *Act of 1996.”.*

5 **SEC. 4603. EXECUTIVES AND MANAGERS.**

6 *Section 214 (8 U.S.C. 1184) is amended—*

7 *(1) in subsection (a)(1), by adding at the end the*
8 *following: “Aliens admitted under section 101(a)(15)*
9 *should include—*

10 *“(A) executives and managers employed by a*
11 *firm or corporation or other legal entity or an affil-*
12 *iate or subsidiary thereof who are principally sta-*
13 *tioned abroad and who seek to enter the United States*
14 *for periods of 90 days or less to oversee and observe*
15 *the United States operations of their related compa-*
16 *nies, and establish strategic objectives when needed; or*

17 *“(B) employees of multinational corporations*
18 *who enter the United States to observe the operations*
19 *of a related United States company and participate*
20 *in select leadership and development training activi-*
21 *ties, whether or not the activity is part of a formal*
22 *or classroom training program for a period not to ex-*
23 *ceed 180 days.*

24 *Nonimmigrant aliens admitted pursuant to section*
25 *101(a)(15) and engaged in the activities described in*

1 *the subparagraph (A) or (B) may not receive a salary*
2 *from a United States source, except for incidental ex-*
3 *penses for meals, travel, lodging and other basic serv-*
4 *ices.”.*

5 **SEC. 4604. HONORARIA.**

6 *Section 212(q) (8 U.S.C. 1182(q)) is amended to read*
7 *as follows:*

8 *“(q)(1) Any alien admitted under section*
9 *101(a)(15)(B) may accept an honorarium payment and as-*
10 *sociated incidental expenses, for a usual academic activity*
11 *or activities (lasting not longer than 9 days at any single*
12 *institution), as defined by the Attorney General in consulta-*
13 *tion with the Secretary of Education, or for a performance,*
14 *appearance and participation in United States based pro-*
15 *gramming, including scripted or unscripted programming*
16 *(with services not rendered for more than 60 days in a 6*
17 *month period) if the alien has received a letter of invitation*
18 *from the institution, organization, or media outlet, such*
19 *payment is offered by an institution, organization, or*
20 *media outlet described in paragraph (2) and is made for*
21 *services conducted for the benefit of that institution, entity*
22 *or media outlet and if the alien has not accepted such pay-*
23 *ment or expenses from more than 5 institutions, organiza-*
24 *tions, or media outlets in the previous 6-month period. Any*
25 *alien who is admitted under section 101(a)(15)(B) or any*

1 *other valid visa may perform services under this section*
2 *without reentering the United States and without a letter*
3 *of invitation, if the alien does not receive any remuneration*
4 *including an honorarium payment or incidental expenses,*
5 *but may receive prize money.*

6 “(2) *An institution, organization, or media outlet de-*
7 *scribed in this paragraph—*

8 “(A) *an institution of higher education (as de-*
9 *defined in section 101(a) of the Higher Education Act*
10 *of 1965 (20 U.S.C. 1001(a))) or a related or affiliated*
11 *nonprofit entity;*

12 “(B) *a nonprofit research organization or a gov-*
13 *ernmental research organization; and*

14 “(C) *a broadcast network, cable entity, produc-*
15 *tion company, new media, internet and mobile based*
16 *companies, who create or distribute programming*
17 *content.”.*

18 **SEC. 4605. NONIMMIGRANTS PARTICIPATING IN RELIEF OP-**

19 **ERATIONS.**

20 *Section 214 (8 U.S.C. 1184), as amended by sections*
21 *3609, 4233, 4405, 4503, 4504, and 4602, is further amended*
22 *by adding at the end following:*

23 “(y) **NONIMMIGRANTS PARTICIPATING IN RELIEF OP-**
24 **ERATIONS.—**

1 “(1) *IN GENERAL.*—An alien coming individ-
2 ually, or aliens coming as a group, to participate in
3 relief operations, including critical infrastructure re-
4 pairs or improvements, needed in response to a Fed-
5 eral or State declared emergency or disaster, may be
6 admitted to the United States pursuant to section
7 101(a)(15)(B) for a period of not more than 90 days
8 if each such alien has been employed in a foreign
9 country by 1 employer for not less than 1 year prior
10 to the date the alien is so admitted.

11 “(2) *PROHIBITION ON INCOME FROM A UNITED*
12 *STATES SOURCE.*—During a period of admission pur-
13 suant to paragraph (1), an alien may not receive in-
14 come from a United States source, except for inci-
15 dental expenses for meals, travel, lodging, and other
16 basic services.”.

17 **SEC. 4606. NONIMMIGRANTS PERFORMING MAINTENANCE**
18 **ON COMMON CARRIERS.**

19 Section 214 (8 U.S.C. 1184), as amended by sections
20 3609, 4233, 4405, 4503, 4504, 4602, and 4603, is further
21 amended by adding at the end following:

22 “(2) *NONIMMIGRANTS PERFORMING MAINTENANCE ON*
23 *COMMON CARRIER.*—

24 “(1) *IN GENERAL.*—An alien coming individ-
25 ually, or aliens coming as a group, who possess spe-

1 *cialized knowledge to perform maintenance or repairs*
2 *for common carriers, including to airlines, cruise*
3 *lines, and railways, if such maintenance or repairs*
4 *are occurring to equipment or machinery manufac-*
5 *tured outside of the United States and are needed for*
6 *purposes relating to life, health, and safety, may be*
7 *admitted to the United States pursuant to section*
8 *101(a)(15)(B) for a period of not more than 90 days*
9 *if each such alien has been employed in a foreign*
10 *country by 1 employer for not less than 1 year prior*
11 *to the date the alien is so admitted.*

12 *“(2) PROHIBITION ON INCOME FROM A UNITED*
13 *STATES SOURCE.—During a period of admission pur-*
14 *suant to paragraph (1), an alien may not receive in-*
15 *come from a United States source, except for inci-*
16 *idental expenses for meals, travel, lodging, and other*
17 *basic services.*

18 *“(3) FEE.—*

19 *“(A) IN GENERAL.—An alien admitted pur-*
20 *suant to paragraph (1) shall pay a fee of \$500*
21 *in addition to any fee assessed to cover the costs*
22 *to process an application under this subsection.*

23 *“(B) USE OF FEE.—The fees collected under*
24 *subparagraph (A) shall be deposited in the Com-*
25 *prehensive Immigration Reform Trust Fund es-*

1 *established under section 6(a)(1) of the Illegal Im-*
2 *migration Reform and Immigrant Responsibility*
3 *Act of 1996.”.*

4 ***Subtitle G—W Nonimmigrant Visas***

5 ***SEC. 4701. BUREAU OF IMMIGRATION AND LABOR MARKET***
6 ***RESEARCH.***

7 *(a) DEFINITIONS.—In this section:*

8 *(1) BUREAU.—Except as otherwise specifically*
9 *provided, the term “Bureau” means the Bureau of*
10 *Immigration and Labor Market Research established*
11 *under subsection (b).*

12 *(2) COMMISSIONER.—The term “Commissioner”*
13 *means the Commissioner of the Bureau.*

14 *(3) CONSTRUCTION OCCUPATION.—The term*
15 *“construction occupation” means an occupation clas-*
16 *sified by the Bureau of Labor Statistics as being*
17 *within the construction industry for the purposes of*
18 *publishing the Bureau’s workforce statistics.*

19 *(4) METROPOLITAN STATISTICAL AREA.—The*
20 *term “metropolitan statistical area” means a geo-*
21 *graphic area designated as a metropolitan statistical*
22 *area by the Director of the Office of Management and*
23 *Budget.*

24 *(5) SHORTAGE OCCUPATION.—The term “short-*
25 *age occupation” means an occupation that the Com-*

1 *missioner determines is experiencing a shortage of*
2 *labor—*

3 *(A) throughout the United States; or*

4 *(B) in a specific metropolitan statistical*
5 *area.*

6 *(6) W VISA PROGRAM.—The term “W Visa Pro-*
7 *gram” means the program for the admission of non-*
8 *immigrant aliens described in subparagraph (W)(i) of*
9 *section 101(a)(15) of the Immigration and Nation-*
10 *ality Act (8 U.S.C. 1101(a)(15)), as added by section*
11 *4702.*

12 *(7) ZONE 1 OCCUPATION.—The term “zone 1 oc-*
13 *cupation” means an occupation that requires little or*
14 *no preparation and is classified as a zone 1 occupa-*
15 *tion on—*

16 *(A) the Occupational Information Network*
17 *Database (O*NET) on the date of the enactment*
18 *of this Act; or*

19 *(B) such Database or a similar successor*
20 *database, as designated by the Secretary of*
21 *Labor, after the date of the enactment of this Act.*

22 *(8) ZONE 2 OCCUPATION.—The term “zone 2 oc-*
23 *cupation” means an occupation that requires some*
24 *preparation and is classified as a zone 2 occupation*
25 *on—*

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1 (A) *the Occupational Information Network*
2 *Database (O*NET) on the date of the enactment*
3 *of this Act; or*

4 (B) *such Database or a similar successor*
5 *database, as designated by the Secretary of*
6 *Labor, after the date of the enactment of this Act.*

7 (9) *ZONE 3 OCCUPATION.*—*The term “zone 3 oc-*
8 *cupation” means an occupation that requires medium*
9 *preparation and is classified as a zone 3 occupation*
10 *on—*

11 (A) *the Occupational Information Network*
12 *Database (O*NET) on the date of the enactment*
13 *of this Act; or*

14 (B) *such Database or a similar successor*
15 *database, as designated by the Secretary of*
16 *Labor, after the date of the enactment of this Act.*

17 (b) *ESTABLISHMENT.*—*There is established a Bureau*
18 *of Immigration and Labor Market Research as an inde-*
19 *pendent statistical agency within U.S. Citizenship and Im-*
20 *migration Services.*

21 (c) *COMMISSIONER.*—*The head of the Bureau of Immi-*
22 *gration and Labor Market Research is the Commissioner,*
23 *who shall be appointed by the President, by and with the*
24 *advice and consent of the Senate.*

1 (d) *DUTIES.*—*The duties of the Commissioner are lim-*
2 *ited to the following:*

3 (1) *To devise a methodology subject to publica-*
4 *tion in the Federal Register and an opportunity for*
5 *public comment regarding the calculation for the*
6 *index referred to in section 220(g)(2)(C) of the Immi-*
7 *gration and Nationality Act, as added by section*
8 *4703.*

9 (2) *To determine and to publish in the Federal*
10 *Register the annual change to the numerical limita-*
11 *tion for nonimmigrant aliens described in subpara-*
12 *graph (W)(i) of section 101(a)(15) of the Immigration*
13 *and Nationality Act (8 U.S.C. 1101(a)(15)), as added*
14 *by section 4702.*

15 (3) *With respect to the W Visa Program, to sup-*
16 *plement the recruitment methods employers may use*
17 *to attract United States workers and current non-*
18 *immigrant aliens described in paragraph (2).*

19 (4) *With respect to the W Visa Program, to de-*
20 *vised a methodology subject to publication in the Fed-*
21 *eral Register and an opportunity for public comment*
22 *to designate shortage occupations in zone 1 occupa-*
23 *tions, zone 2 occupations, and zone 3 occupations.*

24 (5) *With respect to the W Visa Program, to des-*
25 *ignate shortage occupations in any zone 1 occupation,*

1 *zone 2 occupation, or zone 3 occupation and publish*
2 *such occupations in the Federal Register.*

3 *(6) With respect to the W Visa Program, to con-*
4 *duct a survey once every 3 months of the unemploy-*
5 *ment rate of zone 1 occupations, zone 2 occupations,*
6 *or zone 3 occupations that are construction occupa-*
7 *tions in each metropolitan statistical area.*

8 *(7) To study and report to Congress on employ-*
9 *ment-based immigrant and nonimmigrant visa pro-*
10 *grams in the United States and to make annual rec-*
11 *ommendations to improve such programs.*

12 *(8) To carry out any functions required to per-*
13 *form the duties described in paragraphs (1) through*
14 *(7).*

15 *(e) DETERMINATION OF CHANGES TO NUMERICAL LIM-*
16 *ITATIONS.—The methodology required under subsection*
17 *(d)(1) shall be published in the Federal Register not later*
18 *than 18 months after the date of the enactment of this Act.*

19 *(f) DESIGNATION OF SHORTAGE OCCUPATIONS.—*

20 *(1) METHODS TO DETERMINE.—The Commis-*
21 *sioner shall—*

22 *(A) establish the methodology to designate*
23 *shortage occupations under subsection (d)(4);*
24 *and*

1 (B) *publish such methodology in the Federal*
2 *Register not later than 18 months after the date*
3 *of the enactment of this Act.*

4 (2) *PETITION BY EMPLOYER.—The methodology*
5 *established under paragraph (1) shall permit an em-*
6 *ployer to petition the Commissioner for a determina-*
7 *tion that a particular occupation in a particular*
8 *metropolitan statistical area is a shortage occupation.*

9 (3) *REQUIREMENT FOR NOTICE AND COMMENT.—*
10 *The methodology established under paragraph (1)*
11 *shall be effective only after publication in the Federal*
12 *Register and an opportunity for public comment.*

13 (g) *EMPLOYEE EXPERTISE.—The employees of the Bu-*
14 *reau shall have the expertise necessary to identify labor*
15 *shortages in the United States and make recommendations*
16 *to the Commissioner on the impact of immigrant and non-*
17 *immigrant aliens on labor markets in the United States,*
18 *including expertise in economics, labor markets, demo-*
19 *graphics and methods of recruitment of United States work-*
20 *ers.*

21 (h) *INTERAGENCY COOPERATION.—At the request of*
22 *the Commissioner, the Secretary of Commerce, the Director*
23 *of the Bureau of the Census, the Secretary of Labor, and*
24 *the Commissioner of the Bureau of Labor Statistics shall—*

25 (1) *provide data to the Commissioner;*

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1 (2) *conduct appropriate surveys; and*

2 (3) *assist the Commissioner in preparing the rec-*
3 *ommendations referred to subsection (d)(5).*

4 (i) *BUDGET.—*

5 (1) *REPORT.—Not later than 1 year after the*
6 *date of the enactment of this Act, the Director of U.S.*
7 *Citizenship and Immigration Services shall submit to*
8 *Congress a report of the estimated budget that the Bu-*
9 *reau will need to carry out the duties described in*
10 *subsection (d).*

11 (2) *AUDIT.—The Comptroller General of the*
12 *United States shall submit to Congress a report that*
13 *is an audit of the budget prepared by the Director*
14 *under paragraph (1).*

15 (j) *FUNDING.—*

16 (1) *APPROPRIATION OF FUNDS.—There is hereby*
17 *appropriated, out of any money in the Treasury not*
18 *otherwise appropriated, \$20,000,000 to establish the*
19 *Bureau.*

20 (2) *USE OF W NONIMMIGRANT FEES.—The*
21 *amounts collected for fees under section 220(e)(6)(B)*
22 *of the Immigration and Nationality Act, as added by*
23 *section 4703, shall be used to establish and fund the*
24 *Bureau.*

1 (3) *OTHER FEES.*—*The Secretary may establish*
2 *other fees for the sole purpose of funding the W Visa*
3 *Program, including the Bureau, that are related to*
4 *the hiring of alien workers.*

5 **SEC. 4702. NONIMMIGRANT CLASSIFICATION FOR W NON-**
6 **IMMIGRANTS.**

7 *Section 101(a)(15)(W), as added by section 2211, is*
8 *amended by inserting before clause (iii) the following:*

9 “(i) *to perform services or labor for a*
10 *registered nonagricultural employer in a*
11 *registered position (as those terms are de-*
12 *finied in section 220(a)) in accordance with*
13 *the requirements under section 220;*

14 “(ii) *to accompany or follow to join*
15 *such an alien described in clause (i) as the*
16 *spouse or child of such alien;”.*

17 **SEC. 4703. ADMISSION OF W NONIMMIGRANT WORKERS.**

18 **(a) ADMISSION OF W NONIMMIGRANT WORKERS.**—

19 (1) *IN GENERAL.*—*Chapter 2 of title II (8 U.S.C.*
20 *1181 et seq.) is amended by adding at the end the fol-*
21 *lowing:*

22 **“SEC. 220. ADMISSION OF W NONIMMIGRANT WORKERS.**

23 **“(a) DEFINITIONS.**—*In this section:*

24 “(1) *BUREAU.*—*The term ‘Bureau’ means the*
25 *Bureau of Immigration and Labor Market Research*

1 *established by section 4701 of the Illegal Immigration*
2 *Reform and Immigrant Responsibility Act of 1996.*

3 “(2) *CERTIFIED ALIEN.*—*The term ‘certified*
4 *alien’ means an alien that the Secretary of State has*
5 *certified is eligible to be a W nonimmigrant if the*
6 *alien is hired by a registered employer for a registered*
7 *position.*

8 “(3) *COMMISSIONER.*—*The term ‘Commissioner’*
9 *means the Commissioner of the Bureau.*

10 “(4) *CONSTRUCTION OCCUPATION.*—*The term*
11 *‘construction occupation’ means an occupation de-*
12 *finied by the Bureau of Labor Statistics as being with-*
13 *in the construction industry for the purposes of pub-*
14 *lishing the Bureau’s workforce statistics.*

15 “(5) *DEPARTMENT.*—*Except as otherwise pro-*
16 *vided, the term ‘Department’ means the Department*
17 *of Homeland Security.*

18 “(6) *ELIGIBLE OCCUPATION.*—*The term ‘eligible*
19 *occupation’ means an eligible occupation described in*
20 *subsection (e)(3).*

21 “(7) *EMPLOYER.*—

22 “(A) *IN GENERAL.*—*The term ‘employer’*
23 *means any person or entity hiring an individual*
24 *for employment in the United States.*

1 “(B) *TREATMENT OF SINGLE EMPLOYER.*—
2 *For purposes of determining the number of em-*
3 *ployees or United States workers employed by an*
4 *employer, a single entity shall be treated as 1*
5 *employer.*

6 “(8) *EXCLUDED GEOGRAPHIC LOCATION.*—*The*
7 *term ‘excluded geographic location’ means an ex-*
8 *cluded geographic location described in subsection (f).*

9 “(9) *INITIAL W NONIMMIGRANT.*—*The term ‘ini-*
10 *tial W nonimmigrant’ means a certified alien issued*
11 *a W nonimmigrant visa by the Secretary of State*
12 *pursuant to section 101(a)(15)(W)(i) in order to seek*
13 *initial admission to the United States to commence*
14 *employment for a registered employer in a registered*
15 *position subject to the numerical limit at section*
16 *220(g).*

17 “(10) *METROPOLITAN STATISTICAL AREA.*—*The*
18 *term ‘metropolitan statistical area’ means a geo-*
19 *graphic area designated as a metropolitan statistical*
20 *area by the Director of the Office of Management and*
21 *Budget.*

22 “(11) *REGISTERED EMPLOYER.*—*The term ‘reg-*
23 *istered employer’ means a nonagricultural employer*
24 *that the Secretary has designated as a registered em-*
25 *ployer under subsection (d).*

1 “(12) *SECRETARY*.—*Except as otherwise specifi-*
2 *cally provided, the term ‘Secretary’ means the Sec-*
3 *retary of Homeland Security.*

4 “(13) *SINGLE ENTITY*.—*The term ‘single entity’*
5 *means any group treated as a single employer under*
6 *subsection (b), (c), (m), or (o) of section 414 of the In-*
7 *ternal Revenue Code of 1986.*

8 “(14) *SHORTAGE OCCUPATION*.—*The term ‘short-*
9 *age occupation’ means a shortage occupation des-*
10 *ignated by the Commissioner pursuant to section*
11 *4701(d)(4) of the Illegal Immigration Reform and*
12 *Immigrant Responsibility Act of 1996.*

13 “(15) *SMALL BUSINESS*.—*The term ‘small busi-*
14 *ness’ means an employer that employs 25 or fewer*
15 *full-time equivalent employees.*

16 “(16) *UNITED STATES WORKER*.—*The term*
17 *‘United States worker’ means an individual who is—*

18 “(A) *employed or seeking employment in*
19 *the United States; and*

20 “(B)(i) *a national of the United States;*

21 “(ii) *an alien lawfully admitted for perma-*
22 *nent residence;*

23 “(iii) *an alien in Registered Provisional*
24 *Immigrant Status; or*

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1 “(iv) any other alien authorized to work in
2 the United States with no limitation as to the
3 alien’s employer.

4 “(17) *W NONIMMIGRANT*.—The term ‘*W non-*
5 *immigrant*’ means an alien admitted as a non-
6 immigrant pursuant to section 101(a)(15)(W)(i).

7 “(18) *W NONIMMIGRANT VISA*.—The term ‘*W*
8 *nonimmigrant visa*’ means a visa issued to a certified
9 alien by the Secretary of State pursuant to section
10 101(a)(15)(W)(i).

11 “(19) *W VISA PROGRAM*.—The term ‘*W Visa Pro-*
12 *gram*’ means the program for the admission of non-
13 immigrant aliens described in section
14 101(a)(15)(W)(i).

15 “(20) *ZONE 1 OCCUPATION*.—The term ‘*zone 1*
16 *occupation*’ means an occupation that requires little
17 or no preparation and is classified as a zone 1 occu-
18 pation on—

19 “(A) the Occupational Information Network
20 Database (*O*NET*) on the date of the enactment
21 of the *Illegal Immigration Reform and Immig-*
22 *rant Responsibility Act of 1996*; or

23 “(B) such Database or a similar successor
24 database, as designated by the Secretary of
25 Labor, after the date of the enactment of the *Ille-*

1 *gal Immigration Reform and Immigrant Re-*
2 *sponsibility Act of 1996.*

3 “(21) *ZONE 2 OCCUPATION.*—*The term ‘zone 2*
4 *occupation’ means an occupation that requires some*
5 *preparation and is classified as a zone 2 occupation*
6 *on—*

7 “(A) *the Occupational Information Network*
8 *Database (O*NET) on the date of the enactment*
9 *of the Illegal Immigration Reform and Immig-*
10 *grant Responsibility Act of 1996; or*

11 “(B) *such Database or a similar successor*
12 *database, as designated by the Secretary of*
13 *Labor, after the date of the enactment of the Ille-*
14 *gal Immigration Reform and Immigrant Re-*
15 *sponsibility Act of 1996.*

16 “(22) *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 enactment*
22 *of the Illegal Immigration Reform and Immig-*
23 *grant Responsibility Act of 1996; or*

24 “(B) *such Database or a similar successor*
25 *database, as designated by the Secretary of*

1 *Labor, after the date of the enactment of the Ille-*
2 *gal Immigration Reform and Immigrant Re-*
3 *sponsibility Act of 1996.*

4 “(b) *ADMISSION INTO THE UNITED STATES.—*

5 “(1) *W NONIMMIGRANTS.—Subject to this sec-*
6 *tion, a certified alien is eligible to be admitted to the*
7 *United States as a W nonimmigrant if the alien is*
8 *hired by a registered employer for employment in a*
9 *registered position in a location that is not an ex-*
10 *cluded geographic location.*

11 “(2) *SPOUSE AND MINOR CHILDREN.—The—*

12 “(A) *alien spouse and minor children of a*
13 *W nonimmigrant may be admitted to the United*
14 *States pursuant to clause (ii) of section*
15 *101(a)(15)(W) during the period of the principal*
16 *W nonimmigrant’s admission; and*

17 “(B) *such alien spouse shall be—*

18 “(i) *authorized to engage in employ-*
19 *ment in the United States during such pe-*
20 *riod of admission; and*

21 “(ii) *provided with an employment au-*
22 *thorization document, stamp, or other ap-*
23 *propriate work permit.*

24 “(c) *W NONIMMIGRANTS.—*

25 “(1) *CERTIFIED ALIEN.—*

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1 “(A) *APPLICATION.*—*An alien seeking to be*
2 *a W nonimmigrant shall apply to the Secretary*
3 *of State at a United States embassy or consulate*
4 *in a foreign country to be a certified alien.*

5 “(B) *CRITERIA.*—*An alien is eligible to be*
6 *a certified alien if the alien—*

7 “(i) *is not inadmissible under this Act;*

8 “(ii) *passes a criminal background*
9 *check;*

10 “(iii) *agrees to accept only registered*
11 *positions in the United States; and*

12 “(iv) *meets other criteria as established*
13 *by the Secretary.*

14 “(2) *W NONIMMIGRANT STATUS.*—*Only an alien*
15 *that is a certified alien may be admitted to the*
16 *United States as a W nonimmigrant.*

17 “(3) *INITIAL EMPLOYMENT.*—*A W nonimmigrant*
18 *shall report to such nonimmigrant’s initial employ-*
19 *ment in a registered position not later than 14 days*
20 *after such nonimmigrant is admitted to the United*
21 *States.*

22 “(4) *TERM OF ADMISSION.*—

23 “(A) *INITIAL TERM.*—*A certified alien may*
24 *be granted W nonimmigrant status for an initial*
25 *period of 3 years.*

1 “(B) *RENEWAL*.—A *W nonimmigrant* may
2 *renew his or her status as a W nonimmigrant*
3 *for additional 3-year periods. Such a renewal*
4 *may be made while the W nonimmigrant is in*
5 *the United States and shall not require the alien*
6 *to depart the United States.*

7 “(5) *PERIODS OF UNEMPLOYMENT*.—A *W non-*
8 *immigrant—*

9 “(A) *may be unemployed for a period of not*
10 *more than 60 consecutive days; and*

11 “(B) *shall depart the United States if such*
12 *W nonimmigrant is unable to obtain employ-*
13 *ment during such period.*

14 “(6) *TRAVEL*.—A *W nonimmigrant* may travel
15 *outside the United States and be readmitted to the*
16 *United States. Such travel may not extend the period*
17 *of authorized admission of such W nonimmigrant.*

18 “(d) *REGISTERED EMPLOYER*.—

19 “(1) *APPLICATION*.—An employer seeking to be a
20 *registered employer shall submit an application to the*
21 *Secretary. Each such application shall include the fol-*
22 *lowing:*

23 “(A) *Documentation to establish that the*
24 *employer is a bona-fide employer.*

1 “(B) *The employer’s Federal tax identifica-*
2 *tion number or employer identification number*
3 *issued by the Internal Revenue Service.*

4 “(C) *The number of W nonimmigrants the*
5 *employer estimates it will seek to employ annu-*
6 *ally.*

7 “(2) *REFERRAL FOR FRAUD INVESTIGATION.—*
8 *The Secretary may refer an application submitted*
9 *under paragraph (1) or subsection (e)(1)(A) to the*
10 *Fraud Detection and National Security Directorate of*
11 *U.S. Citizenship and Immigration Services if there is*
12 *evidence of fraud for potential investigation.*

13 “(3) *INELIGIBLE EMPLOYERS.—*

14 “(A) *IN GENERAL.—Notwithstanding any*
15 *other applicable penalties under law, the Sec-*
16 *retary may deny an employer’s application to be*
17 *a registered employer if the Secretary deter-*
18 *mines, after notice and an opportunity for a*
19 *hearing, that the employer submitting such ap-*
20 *plication—*

21 “(i) *has, with respect to the applica-*
22 *tion required under paragraph (1), includ-*
23 *ing any attestations required by law—*

24 “(I) *knowingly misrepresented a*
25 *material fact;*

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1 *minimum wage provisions of section 6*
2 *of the Fair Labor Standards Act of*
3 *1938 (29 U.S.C. 206); or*

4 *“(III) received a final adjudica-*
5 *tion assessing a civil money penalty*
6 *for any willful violation of the over-*
7 *time provisions of section 7 of the Fair*
8 *Labor Standards Act of 1938 or any*
9 *regulations thereunder; or*

10 *“(v) has, within 2 years prior to the*
11 *date of application, received a final adju-*
12 *dications for a willful violation or repeated*
13 *serious violations involving injury or*
14 *death—*

15 *“(I) of section 5 of the Occupa-*
16 *tional Safety and Health Act of 1970*
17 *(29 U.S.C. 654);*

18 *“(II) of any standard, rule, or*
19 *order promulgated pursuant to section*
20 *6 of the Occupational Safety and*
21 *Health Act of 1970 (29 U.S.C. 655); or*

22 *“(III) of a plan approved under*
23 *section 18 of the Occupational Safety*
24 *and Health Act of 1970 (29 U.S.C.*
25 *667).*

1813

1 “(B) *LENGTH OF INELIGIBILITY.*—

2 “*(i) TEMPORARY INELIGIBILITY.*—An
3 employer described in subparagraph (A)
4 may be ineligible to be a registered em-
5 ployer for a period that is not less than the
6 time period determined by the Secretary
7 and not more than 3 years.

8 “*(ii) PERMANENT INELIGIBILITY.*—An
9 employer who has been convicted of any of-
10 fense set out in chapter 77 of title 18,
11 United States Code, or any conspiracy to
12 commit such offenses, or any human traf-
13 ficking offense under State or territorial law
14 shall be permanently ineligible to be a reg-
15 istered employer.

16 “(4) *TERM OF REGISTRATION.*—The Secretary
17 shall approve applications meeting the criteria of this
18 subsection for a term of 3 years.

19 “(5) *RENEWAL.*—An employer may submit an
20 application to renew the employer’s status as a reg-
21 istered employer for additional 3-year periods.

22 “(6) *FEE.*—At the time an employer’s applica-
23 tion to be a registered employer or to renew such sta-
24 tus is approved, such employer shall pay a fee in an

1 *amount determined by the Secretary to be sufficient*
2 *to cover the costs of the registry of such employers.*

3 “(7) *CONTINUED ELIGIBILITY.*—*Each registered*
4 *employer shall submit to the Secretary an annual re-*
5 *port that demonstrates that the registered employer*
6 *has provided the wages and working conditions the*
7 *registered employer agreed to provide to its employees.*

8 “(e) *REGISTERED POSITIONS.*—

9 “(1) *IN GENERAL.*—

10 “(A) *APPLICATION.*—*Each registered em-*
11 *ployer shall submit to the Secretary an applica-*
12 *tion to designate a position for which the em-*
13 *ployer is seeking a W nonimmigrant as a reg-*
14 *istered position. The Secretary is authorized to*
15 *determine if the wage to be paid by the employer*
16 *complies with subparagraph (B)(iv). Each such*
17 *application shall include a description of each*
18 *such position.*

19 “(B) *ATTESTATION.*—*An application sub-*
20 *mitted under subparagraph (A) shall include an*
21 *attestation of the following:*

22 “(i) *The number of full-time equivalent*
23 *employees of the employer.*

1815

1 “(ii) *The occupational category, as*
2 *classified by the Secretary of Labor, for*
3 *which the registered position is sought.*

4 “(iii) *Whether the occupation for which*
5 *the registered position is sought is a short-*
6 *age occupation.*

7 “(iv) *Except as provided in subsection*
8 *(g)(4)(C)(i), the wages to be paid to W non-*
9 *immigrants employed by the employer in*
10 *the registered position, including a position*
11 *in a shortage occupation, will be the greater*
12 *of—*

13 “(I) *the actual wage level paid by*
14 *the employer to other employees with*
15 *similar experience and qualifications*
16 *for such position; or*

17 “(II) *the prevailing wage level for*
18 *the occupational classification of the*
19 *position in the metropolitan statistical*
20 *area of the employment, as determined*
21 *by the Secretary, based on the best in-*
22 *formation available as of the time of*
23 *filing the application.*

24 “(v) *The working conditions for W*
25 *nonimmigrants will not adversely affect the*

1816

1 *working conditions of other workers em-*
2 *ployed in similar positions.*

3 “(vi) *The employer has carried out the*
4 *recruiting activities required by paragraph*
5 *(2)(B).*

6 “(vii) *There is no qualified United*
7 *States worker who has applied for the posi-*
8 *tion and who is ready, willing, and able to*
9 *fill such position pursuant to the require-*
10 *ments in subparagraphs (B) and (C) of*
11 *paragraph (2).*

12 “(viii) *There is not a strike, lockout, or*
13 *work stoppage in the course of a labor dis-*
14 *pute in the occupation at the place of em-*
15 *ployment at which the W nonimmigrant*
16 *will be employed. If such strike, lockout, or*
17 *work stoppage occurs following submission*
18 *of the application, the employer will pro-*
19 *vide notification in accordance with all ap-*
20 *plicable regulations.*

21 “(ix)(I) *The employer has not laid off*
22 *and will not layoff a United States worker*
23 *during the period beginning 90 days prior*
24 *to and ending 90 days after the date the*
25 *employer files an application for designa-*

1817

1 *tion of a position for which the W non-*
2 *immigrant is sought or hires such W non-*
3 *immigrant, unless the employer has notified*
4 *such United States worker of the position*
5 *and documented the legitimate reasons that*
6 *such United States worker is not qualified*
7 *or available for the position.*

8 *“(II) A United States worker is not*
9 *laid off for purposes of this subparagraph if,*
10 *at the time such worker’s employment is*
11 *terminated, such worker is not employed in*
12 *the same occupation and in the same metro-*
13 *politan statistical area where the registered*
14 *position referred to in subclause (I) is lo-*
15 *cated.*

16 *“(C) BEST INFORMATION AVAILABLE.—In*
17 *subparagraph (B)(iv)(II), the term ‘best infor-*
18 *mation available’, with respect to determining*
19 *the prevailing wage for a position, means—*

20 *“(i) a controlling collective bargaining*
21 *agreement or Federal contract wage, if ap-*
22 *plicable;*

23 *“(ii) if there is no applicable wage*
24 *under clause (i), the wage level commensu-*
25 *rate with the experience, training, and su-*

1 *pervision required for the job based on Bu-*
2 *reau of Labor Statistics data; or*

3 *“(iii) if the data referred to in clause*
4 *(ii) is not available, a legitimate and recent*
5 *private survey of the wages paid for such*
6 *positions in the metropolitan statistical*
7 *area.*

8 *“(D) PERMIT.—The Secretary shall provide*
9 *each registered employer whose application sub-*
10 *mitted under subparagraph (A) is approved with*
11 *a permit that includes the number and descrip-*
12 *tion of such employer’s approved registered posi-*
13 *tions.*

14 *“(E) TERM OF REGISTRATION.—The ap-*
15 *proval of a registered position under subpara-*
16 *graph (A) is for a term that begins on the date*
17 *of such approval and ends on the earlier of—*

18 *“(i) the date the employer’s status as a*
19 *registered employer is terminated;*

20 *“(ii) 3 years after the date of such ap-*
21 *proval; or*

22 *“(iii) upon proper termination of the*
23 *registered position by the employer.*

24 *“(F) REGISTRY OF REGISTERED POSI-*
25 *TIONS.—*

1 “(i) *MAINTENANCE OF REGISTRY.*—*The*
2 *Secretary shall develop and maintain a reg-*
3 *istry of approved registered positions for*
4 *which the Secretary has issued a permit*
5 *under subparagraph (D).*

6 “(ii) *AVAILABILITY ON WEBSITE.*—*The*
7 *registry required by clause (i) shall be ac-*
8 *cessible on a website maintained by the Sec-*
9 *retary.*

10 “(iii) *AVAILABILITY ON STATE WORK-*
11 *FORCE AGENCY WEBSITES.*—*Each State*
12 *workforce agency shall be linked to such reg-*
13 *istry and provide access to such registry*
14 *through the website maintained by such*
15 *agency.*

16 “(iv) *CONDITIONS OF AVAILABILITY ON*
17 *WEBSITE.*—

18 “(I) *IN GENERAL.*—*Each ap-*
19 *proved registered position for which the*
20 *Secretary has issued a permit shall be*
21 *included in the registry of registered*
22 *positions maintained by the Secretary*
23 *and shall remain available for viewing*
24 *on such registry throughout the term of*

1820

1 registration referred to in subpara-
2 graph (E) or paragraph (5).

3 “(II) INDICATION OF VACANCY.—

4 The Secretary shall ensure that such
5 registry indicates whether each ap-
6 proved registered position in the reg-
7 istry is filled or unfilled.

8 “(III) REQUIREMENT FOR 10-DAY

9 POSTING.—If a W nonimmigrant’s em-
10 ployment in a registered position ends,
11 either voluntarily or involuntarily, the
12 Secretary shall ensure that such reg-
13 istry indicates that the registered posi-
14 tion is unfilled for a period of 10 cal-
15 endar days, unless such registered posi-
16 tion is filled by a United States work-
17 er.

18 “(2) REQUIREMENTS.—

19 “(A) ELIGIBLE OCCUPATION.—Each reg-
20 istered position shall be for a position in an eli-
21 gible occupation as described in paragraph (3).

22 “(B) RECRUITMENT OF UNITED STATES
23 WORKERS.—

1821

1 “(i) *REQUIREMENTS.*—A position may
2 not be a registered position unless the reg-
3 istered employer—

4 “(I) advertises the position for a
5 period of 30 days, including the wage
6 range, location, and proposed start
7 date—

8 “(aa) on the Internet website
9 maintained by the Secretary of
10 Labor for the purpose of such ad-
11 vertising; and

12 “(bb) with the workforce
13 agency of the State where the po-
14 sition will be located; and

15 “(II) except as provided for in
16 subsection (g)(4)(B)(i), carries out not
17 less than 3 of the recruiting activities
18 described in subparagraph (C).

19 “(ii) *DURATION OF ADVERTISING.*—
20 The 30 day periods required by item (aa) of
21 (bb) of clause (i)(I) may occur at the same
22 time.

23 “(C) *RECRUITING ACTIVITIES.*—The recruit-
24 ing activities described in this subparagraph,
25 with respect to a position for which the employer

1822

1 *is seeking a W nonimmigrant, shall consist of*
2 *any combination of the following as defined by*
3 *the Secretary of Homeland Security:*

4 “(i) *Advertising such position at job*
5 *fairs.*

6 “(ii) *Advertising such position on the*
7 *employer’s external website.*

8 “(iii) *Advertising such position on job*
9 *search Internet websites.*

10 “(iv) *Advertising such position using*
11 *presentations or postings at vocational, ca-*
12 *reer technical schools, community colleges,*
13 *high schools, or other educational or train-*
14 *ing sites.*

15 “(v) *Posting such position with trade*
16 *associations.*

17 “(vi) *Utilizing a search firm to seek*
18 *applicants for such position.*

19 “(vii) *Advertising such position*
20 *through recruitment programs with place-*
21 *ment offices at vocational schools, career*
22 *technical schools, community colleges, high*
23 *schools, or other educational or training*
24 *sites.*

1823

1 “(viii) Advertising such position
2 through advertising or postings with local
3 libraries, journals, or newspapers.

4 “(ix) Seeking a candidate for such po-
5 sition through an employee referral pro-
6 gram with incentives.

7 “(x) Advertising such position on radio
8 or television.

9 “(xi) Advertising such position through
10 advertising, postings, or presentations with
11 newspapers, Internet websites, job fairs, or
12 community events targeted to constituencies
13 designed to increase employee diversity.

14 “(xii) Advertising such position
15 through career day presentations at local
16 high schools or community organizations.

17 “(xiii) Providing in-house training.

18 “(xiv) Providing third-party training.

19 “(xv) Advertising such position
20 through recruitment, educational, or other
21 cooperative programs offered by the em-
22 ployer and a local economic development
23 authority.

1824

1 “(xvi) *Advertising such position twice*
2 *in the Sunday ads in the primary daily*
3 *circulation newspaper in the area.*

4 “(xvii) *Any other recruitment activi-*
5 *ties determined to be appropriate to be*
6 *added by the Commissioner.*

7 “(3) *ELIGIBLE OCCUPATION.—*

8 “(A) *IN GENERAL.—An occupation is an el-*
9 *igible occupation if the occupation—*

10 “(i) *is a zone 1 occupation, a zone 2*
11 *occupation, or zone 3 occupation; and*

12 “(ii) *is not an excluded occupation*
13 *under subparagraph (B).*

14 “(B) *EXCLUDED OCCUPATIONS.—*

15 “(i) *OCCUPATIONS REQUIRING COL-*
16 *LEGE DEGREES.—An occupation that is*
17 *listed in the Occupational Outlook Hand-*
18 *book published by the Bureau of Labor Sta-*
19 *tics (or similar successor publication)*
20 *that is classified as requiring an individual*
21 *with a bachelor’s degree or higher level of*
22 *education may not be an eligible occupa-*
23 *tion.*

24 “(ii) *COMPUTER OCCUPATIONS.—An*
25 *occupation in the field of computer oper-*

1825

1 *ation, computer programming, or computer*
2 *repair may not be an eligible occupation.*

3 “(C) *PUBLICATION.*—*The Secretary of*
4 *Labor shall publish the eligible occupations, des-*
5 *ignated as zone 1 occupations, zone 2 occupa-*
6 *tions, or zone 3 occupations, on an on-going*
7 *basis on a publicly available website.*

8 “(4) *FILLING OF VACANCIES.*—*If a W non-*
9 *immigrant’s employment in a registered position*
10 *ends, such employer may fill that vacancy—*

11 “(A) *by hiring a United States worker; or*

12 “(B) *after the 10 calendar day posting pe-*
13 *riod in subsection (e)(1)(F)(iv)(III) by hiring—*

14 “(i) *a W nonimmigrant; or*

15 “(ii) *if available under subsection*
16 *(g)(4), a certified alien.*

17 “(5) *PERIOD OF APPROVAL.*—

18 “(A) *IN GENERAL.*—*Except as provided in*
19 *subparagraph (B), a registered position shall be*
20 *approved by the Secretary for a period of 3*
21 *years.*

22 “(B) *RETURNING W NONIMMIGRANTS.*—

23 “(i) *EXTENSION OF PERIOD.*—*A reg-*
24 *istered position shall continue to be a reg-*
25 *istered position at the end of the 3-year pe-*

1826

1 riod referred to in subparagraph (A) if the
2 W nonimmigrant hired for such position is
3 the beneficiary of a petition for immigrant
4 status filed by the registered employer pur-
5 suant to this Act or is returning to the same
6 registered employer.

7 “(i) *TERMINATION OF PERIOD.*—The
8 term of a registration position extended
9 under clause (i) shall terminate on the date
10 that is the earlier of—

11 “(I) the date an application or
12 petition by or for a W nonimmigrant
13 to obtain immigrant status is ap-
14 proved or denied by the Secretary; or

15 “(II) the date of the termination
16 of such W nonimmigrant’s employment
17 with the registered employer.

18 “(6) *FEEES.*—

19 “(A) *REGISTRATION FEE.*—

20 “(i) *IN GENERAL.*—At the time a W
21 nonimmigrant commences employment in
22 the registered position for a registered em-
23 ployer, such employer shall pay a registra-
24 tion fee in an amount determined by the
25 Secretary.

1827

1 “(i) *USE OF FEE.*—A fee collected
2 under clause (i) shall be used to fund any
3 aspect of the operation of the W Visa Pro-
4 gram.

5 “(B) *ADDITIONAL FEE.*—

6 “(i) *IN GENERAL.*—In addition to the
7 fee required by subparagraph (A), a reg-
8 istered employer, at the time a W non-
9 immigrant commences employment in the
10 registered position for the registered em-
11 ployer, shall pay an additional fee for each
12 such approved registered position as follows:

13 “(I) A fee of \$1,750 for the reg-
14 istered position if the registered em-
15 ployer, at the time of filing the appli-
16 cation for the registered position, is a
17 small business and more than 50 per-
18 cent and less than 75 percent of the
19 employees of the registered employer
20 are not United States workers.

21 “(II) A fee of \$3,500 for the reg-
22 istered position if the registered em-
23 ployer, at the time of filing the appli-
24 cation for the registered position, is a
25 small business and more than 75 per-

1828

1 *cent of the employees of the registered*
2 *employer are not United States work-*
3 *ers.*

4 “(III) *A fee of \$3,500 for the reg-*
5 *istered position if the registered em-*
6 *ployer, at the time of filing the appli-*
7 *cation for the registered position, is not*
8 *a small business and more than 15*
9 *percent and less than 30 percent of the*
10 *employees of the registered employer*
11 *are not United States workers.*

12 “(ii) *USE OF FEE.—A fee collected*
13 *under clause (i) shall be used to fund the*
14 *operations of the Bureau.*

15 “(C) *PROHIBITION ON OTHER FEES.—A*
16 *registered employer may not be required to pay*
17 *an additional fee other than any fees specified in*
18 *this Act if the registered employer is a small*
19 *business.*

20 “(7) *PROHIBITION ON REGISTERED POSITIONS*
21 *FOR CERTAIN EMPLOYERS.—The Secretary may not*
22 *approve an application for a registered position for*
23 *an employer if the employer is not a small business*
24 *and 30 percent or more of the employees of the em-*
25 *ployer are not United States workers.*

1 “(f) *EXCLUDED GEOGRAPHIC LOCATION.*—No applica-
2 tion for a registered position filed by a registered employer
3 for an eligible occupation may be approved if the registered
4 position is located in a metropolitan statistical area that
5 has an unemployment rate that is more than 8½ percent
6 as reported in the most recent month preceding the date
7 that the application is submitted to the Secretary unless—

8 “(1) the Commissioner has identified the eligible
9 occupation as a shortage occupation; or

10 “(2) the Secretary approves the registered posi-
11 tion under subsection (g)(4).

12 “(g) *NUMERICAL LIMITATION.*—

13 “(1) *REGISTERED POSITIONS.*—

14 “(A) *IN GENERAL.*—Subject to paragraphs
15 (3) and (4), the maximum number of registered
16 positions that may be approved by the Secretary
17 for a year is as follows:

18 “(i) For the first year aliens are ad-
19 mitted as *W* nonimmigrants, 20,000.

20 “(ii) For the second such year, 35,000.

21 “(iii) For the third such year, 55,000.

22 “(iv) For the fourth such year, 75,000.

23 “(v) For each year after the fourth
24 such year, the level calculated for that year
25 under paragraph (2).

1830

1 “(B) *DATES.*—*The first year referred to in*
2 *subparagraph (A)(i) shall begin on April 1,*
3 *2015, and end on March 31, 2016, unless the*
4 *Secretary determines that such first year shall*
5 *begin on October 1, 2015, and end on September*
6 *30, 2016.*

7 “(2) *YEARS AFTER YEAR 4.*—

8 “(A) *CURRENT YEAR AND PRECEDING*
9 *YEAR.*—*In this paragraph—*

10 “(i) *the term ‘current year’ shall refer*
11 *to the 12-month period for which the cal-*
12 *culatation of the numerical limits under this*
13 *paragraph is being performed; and*

14 “(ii) *the term ‘preceding year’ shall*
15 *refer to the 12-month period immediately*
16 *preceding the current year.*

17 “(B) *NUMERICAL LIMITATION.*—*Subject to*
18 *subparagraph (D), the number of registered posi-*
19 *tions that may be approved by the Secretary for*
20 *a year after the fourth year referred to in para-*
21 *graph (1)(A)(iv) shall be equal to the sum of—*

22 “(i) *the number of such registered posi-*
23 *tions available under this paragraph for the*
24 *preceding year; and*

25 “(ii) *the product of—*

1831

1 “(I) the number of such registered
2 positions available under this para-
3 graph for the preceding year; multi-
4 plied by

5 “(II) the index for the current
6 year calculated under subparagraph
7 (C).

8 “(C) INDEX.—The index calculated under
9 this subparagraph for a current year equals the
10 sum of—

11 “(i) one-fifth of a fraction—

12 “(I) the numerator of which is the
13 number of registered positions that reg-
14 istered employers applied to have ap-
15 proved under subsection (e)(1) for the
16 preceding year minus the number of
17 registered positions approved under
18 subsection (e) for the preceding year;
19 and

20 “(II) the denominator of which is
21 the number of registered positions ap-
22 proved under subsection (e) for the pre-
23 ceding year;

24 “(ii) one-fifth of a fraction—

1832

1 “(I) *the numerator of which is the*
2 *number of registered positions the*
3 *Commissioner recommends be available*
4 *under this subparagraph for the cur-*
5 *rent year minus the number of reg-*
6 *istered positions available under this*
7 *subsection for the preceding year; and*

8 “(II) *the denominator of which is*
9 *the number of registered positions*
10 *available under this subsection for the*
11 *preceding year;*

12 “(iii) *three-tenths of a fraction—*

13 “(I) *the numerator of which is the*
14 *number of unemployed United States*
15 *workers for the preceding year minus*
16 *the number of unemployed United*
17 *States workers for the current year;*
18 *and*

19 “(II) *the denominator of which is*
20 *the number of unemployed United*
21 *States workers for the preceding year;*
22 *and*

23 “(iv) *three-tenths of a fraction—*

24 “(I) *the numerator of which is the*
25 *number of job openings as set out in*

1833

1 *the Job Openings and Labor Turnover*
2 *Survey of the Bureau of Labor Statis-*
3 *tics for the current year minus such*
4 *number of job openings for the pre-*
5 *ceding year; and*

6 *“(II) the denominator of which is*
7 *the number of such job openings for the*
8 *preceding year;*

9 *“(D) MINIMUM AND MAXIMUM LEVELS.—*
10 *The number of registered positions calculated*
11 *under subparagraph (B) for a 12-month period*
12 *may not be less than 20,000 nor more than*
13 *200,000.*

14 *“(3) ADDITIONAL REGISTERED POSITIONS FOR*
15 *SHORTAGE OCCUPATIONS.—In addition to the number*
16 *of registered positions made available for a year*
17 *under paragraph (1), the Secretary shall make avail-*
18 *able for a year an additional number of registered po-*
19 *sitions for shortage occupations in a particular met-*
20 *ropolitan statistical area.*

21 *“(4) SPECIAL ALLOCATIONS OF REGISTERED PO-*
22 *SITIONS.—*

23 *“(A) AUTHORITY TO MAKE AVAILABLE.—In*
24 *addition to the number of registered positions*
25 *made available for a year under paragraph (1)*

1 or (3), the Secretary shall make additional reg-
2 istered positions available for the year for a spe-
3 cific registered employer as described in this
4 paragraph, if—

5 “(i) the maximum number of registered
6 positions available under paragraph (1)
7 have been approved for the year and none
8 remain available for allocation; or

9 “(ii) such registered employer is lo-
10 cated in a metropolitan statistical area that
11 has an unemployment rate that is more
12 than 8½ percent as reported in the most re-
13 cent month preceding the date that the ap-
14 plication is submitted to the Secretary.

15 “(B) RECRUITMENT.—

16 “(i) IN GENERAL.—Except as provided
17 in clause (ii), an initial W nonimmigrant
18 may only enter the United States for initial
19 employment pursuant to a special alloca-
20 tion under this paragraph if the registered
21 employer has carried out at least 7 of the
22 recruiting activities described in subsection
23 (e)(2)(C).

24 “(ii) REQUIREMENT TO RECRUIT W
25 NONIMMIGRANTS IN THE UNITED STATES.—

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1 *A registered employer may register a posi-*
2 *tion pursuant to a special allocation under*
3 *this paragraph by conducting at least 3 of*
4 *the recruiting activities described in sub-*
5 *section (e)(2)(C), however a position reg-*
6 *istered pursuant to this clause may not be*
7 *filled by an initial W nonimmigrant enter-*
8 *ing the United States for initial employ-*
9 *ment.*

10 “(iii) 30 DAY POSTING.—

11 “(I) REQUIREMENT.—Any reg-

12 *istered employer registering any posi-*
13 *tion under the special allocation au-*
14 *thority shall post the position, includ-*
15 *ing the wage range, location, and ini-*
16 *tial date of employment, for not less*
17 *than 30 days—*

18 “(aa) on the Internet website

19 *maintained by the Secretary of*
20 *Labor for the purpose of such ad-*
21 *vertising; and*

22 “(bb) with the workforce

23 *agency of the State where the po-*
24 *sition will be located.*

1836

1 “(II) *CONTEMPORANEOUS POST-*
2 *ING.—The 30 day periods required by*
3 *items (aa) and (bb) of subclause (I)*
4 *may occur at the same time.*

5 “(C) *WAGES.—*

6 “(i) *INITIAL W NONIMMIGRANTS.—An*
7 *initial W nonimmigrant entering the*
8 *United States for initial employment pur-*
9 *suant to a registered position made avail-*
10 *able under this paragraph may not be paid*
11 *less than the greater of—*

12 “(I) *the level 4 wage set out in the*
13 *Foreign Labor Certification Data Cen-*
14 *ter Online Wage Library (or similar*
15 *successor website) maintained by the*
16 *Secretary of Labor for such occupation*
17 *in that metropolitan statistical area;*
18 *or*

19 “(II) *the mean of the highest two-*
20 *thirds of wages surveyed for such occu-*
21 *pation in that metropolitan statistical*
22 *area.*

23 “(ii) *OTHER W NONIMMIGRANTS.—A W*
24 *nonimmigrant employed in a registered po-*
25 *sition referred to in subsection (g)(4)(B)(ii)*

1837

1 *may not be paid less than the wages re-*
2 *quired under subsection (e)(1)(B)(iv).*

3 “(D) *REDUCTION OF FUTURE REGISTERED*
4 *POSITIONS.—Each registered position made*
5 *available for a year subject to the wage condi-*
6 *tions of subparagraph (C)(i) shall reduce by 1*
7 *the number of registered positions made avail-*
8 *able under paragraph (g)(1) for the following*
9 *year or the earliest possible year for which a reg-*
10 *istered position is available. The limitation con-*
11 *tained in subsection (h)(4) shall not be reduced*
12 *by any registered position made available under*
13 *this paragraph.*

14 “(h) *ALLOCATION OF REGISTERED POSITIONS.—*

15 “(1) *IN GENERAL.—*

16 “(A) *FIRST 6-MONTH PERIOD.—The number*
17 *of registered positions available for the 6-month*
18 *period beginning on the first day of a year is 50*
19 *percent of the maximum number of registered po-*
20 *sitions available for such year under paragraph*
21 *(1) or (2) of subsection (g). Such registered posi-*
22 *tions shall be allocated as described in this sub-*
23 *section.*

24 “(B) *SECOND 6-MONTH PERIOD.—The num-*
25 *ber of registered positions available for the 6-*

1 *month period ending on the last day of a year*
2 *is the maximum number of registered positions*
3 *available for such year under paragraph (1) or*
4 *(2) of subsection (g) minus the number of reg-*
5 *istered positions approved during the 6-month*
6 *period referred to in subsection (A). Such reg-*
7 *istered positions shall be allocated as described*
8 *in this subsection.*

9 “(2) *SHORTAGE OCCUPATIONS.*—

10 “(A) *IN GENERAL.*—*For the first month of*
11 *each 6-month period referred to in subparagraph*
12 *(A) or (B) of paragraph (1) a registered position*
13 *may not be created in an occupation that is not*
14 *a shortage occupation.*

15 “(B) *INITIAL DESIGNATIONS.*—*Subpara-*
16 *graph (A) shall not apply in any period for*
17 *which the Commissioner has not designated any*
18 *shortage occupations.*

19 “(3) *SMALL BUSINESSES.*—*During the second,*
20 *third, and fourth months of each 6-month period re-*
21 *ferred to in subparagraph (A) or (B) of paragraph*
22 *(1), one-third of the number of registered positions al-*
23 *located for such period shall be approved only for a*
24 *registered employer that is a small business. Any such*
25 *registered positions not approved for such small busi-*

1 *nesses during such months shall be available for any*
2 *registered employer during the last 2 months of each*
3 *such 6-month period.*

4 *“(4) ANIMAL PRODUCTION SUBSECTORS.—In ad-*
5 *dition to the number of registered positions made*
6 *available for a year under paragraph (1) or (3) of*
7 *such section (g), the Secretary shall make additional*
8 *registered positions available for the year for occupa-*
9 *tions designated by the Secretary of Labor as Animal*
10 *Production Subsectors. The numerical limitation for*
11 *such additional registered positions shall be no more*
12 *than 10 percent of the annual numerical limitation*
13 *provided for in such paragraph (1).*

14 *“(5) LIMITATION FOR CONSTRUCTION OCCUPA-*
15 *TIONS.—*

16 *“(A) IN GENERAL.—Subject to subpara-*
17 *graph (B), not more than 33 percent of the reg-*
18 *istered positions made available under para-*
19 *graph (1) or (2) of subsection (g) for a year may*
20 *be granted to perform work in a construction oc-*
21 *cupation.*

22 *“(B) MAXIMUM LEVEL.—Notwithstanding*
23 *subparagraph (A), the number of registered posi-*
24 *tions granted to perform work in a construction*
25 *occupation under subsection (g)(1) may not ex-*

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1 *ceed 15,000 for a year and 7,500 for any 6-*
2 *month period.*

3 “(C) *PROHIBITION FOR OCCUPATIONS WITH*
4 *HIGH UNEMPLOYMENT.—*

5 “(i) *IN GENERAL.—A registered em-*
6 *ployer may not hire a certified alien for a*
7 *registered position to perform work in a*
8 *construction occupation if the unemploy-*
9 *ment rate for construction occupations in*
10 *the corresponding occupational job zone in*
11 *that metropolitan statistical area was more*
12 *than 8½ percent.*

13 “(ii) *DETERMINATION OF UNEMPLOY-*
14 *MENT RATE.—The unemployment rate used*
15 *in clause (i) shall be determined—*

16 “(I) *using the most recent survey*
17 *taken by the Bureau; or*

18 “(II) *if a survey referred to in*
19 *subclause (I) is not available, using a*
20 *recent and legitimate private survey.*

21 “(i) *PORTABILITY.—A W nonimmigrant who is ad-*
22 *mitted to the United States for employment by a registered*
23 *employer may—*

24 “(1) *terminate such employment for any reason;*
25 *and*

1 “(2) *seek and accept employment with another*
2 *registered employer in any other registered position*
3 *within the terms and conditions of the W non-*
4 *immigrant’s visa.*

5 “(j) *PROMOTION.—A registered employer may promote*
6 *a W nonimmigrant if the W nonimmigrant has been em-*
7 *ployed with that employer for a period of not less than 12*
8 *months. Such a promotion shall not increase the total num-*
9 *ber of registered positions available to that employer.*

10 “(k) *PROHIBITION ON OUTPLACEMENT.—A registered*
11 *employer may not place, outsource, lease, or otherwise con-*
12 *tract for the services or placement of a W nonimmigrant*
13 *employee with another employer if more than 15 percent*
14 *of the employees of the registered employer are W non-*
15 *immigrants.*

16 “(l) *W NONIMMIGRANT PROTECTIONS.—*

17 “(1) *APPLICABILITY OF LAWS.—A W non-*
18 *immigrant shall not be denied any right or any reme-*
19 *dy under Federal, State, or local labor or employ-*
20 *ment law that would be applicable to a United States*
21 *worker employed in a similar position with the em-*
22 *ployer because of the alien’s status as a non-*
23 *immigrant worker.*

24 “(2) *WAIVER OF RIGHTS PROHIBITED.—*

1 “(A) *IN GENERAL.*—*A W nonimmigrant*
2 *may not be required to waive any substantive*
3 *rights or protections under this Act.*

4 “(B) *CONSTRUCTION.*—*Nothing under this*
5 *paragraph may be construed to affect the inter-*
6 *pretation of any other law.*

7 “(3) *PROHIBITION ON TREATMENT AS INDE-*
8 *PENDENT CONTRACTORS.*—

9 “(A) *IN GENERAL.*—*Notwithstanding any*
10 *other provision of law—*

11 “(i) *a W nonimmigrant is prohibited*
12 *from being treated as an independent con-*
13 *tractor under any Federal or State law;*
14 *and*

15 “(ii) *no person, including an employer*
16 *or labor contractor and any persons who*
17 *are affiliated with or contract with an em-*
18 *ployer or labor contractor, may treat a W*
19 *nonimmigrant as an independent con-*
20 *tractor.*

21 “(B) *CONSTRUCTION.*—*Subparagraph (A)*
22 *may not be construed to prevent registered em-*
23 *ployers who operate as independent contractors*
24 *from employing W nonimmigrants.*

25 “(4) *PAYMENT OF FEES.*—

1 “(A) *IN GENERAL.*—A fee related to the hir-
2 ing of a *W nonimmigrant* required to be paid by
3 an employer under this Act shall be paid by the
4 employer and may not be deducted from the
5 wages or other compensation paid to a *W non-*
6 immigrant.

7 “(B) *EXCLUDED COSTS.*—The cost of round
8 trip transportation from a certified alien’s home
9 to the location of a registered position and the
10 cost of obtaining a foreign passport are not fees
11 required to be paid by the employer.

12 “(5) *TAX RESPONSIBILITIES.*—An employer shall
13 comply with all applicable Federal, State, and local
14 tax laws with respect to each *W nonimmigrant em-*
15 ployed by the employer.

16 “(6) *PROHIBITED ACTIVITIES.*—It shall be un-
17 lawful for an employer of a *W nonimmigrant* to in-
18 timidate, threaten, restrain, coerce, retaliate, dis-
19 charge, or in any other manner, discriminate against
20 an employee or former employee because the employee
21 or former employee—

22 “(A) discloses information to the employer
23 or any other person that the employee or former
24 employee reasonably believes demonstrates a vio-
25 lation of this section; or

1 “(B) cooperates or seeks to cooperate in an
2 investigation or other proceeding concerning
3 compliance with the requirements of this section.

4 “(m) COMPLAINT PROCESS.—The Secretary shall es-
5 tablish a process for the receipt, investigation, and disposi-
6 tion of complaints by an aggrieved applicant, employee, or
7 nonimmigrant (or a person acting on behalf of such appli-
8 cant, employee, or nonimmigrant) with respect to—

9 “(1) the failure of a registered employer to meet
10 a condition of this section; or

11 “(2) the lay off or nonhiring of a United States
12 worker as prohibited under this section.

13 “(n) ENFORCEMENT.—

14 “(1) IN GENERAL.—The Secretary shall promul-
15 gate regulations for the receipt, investigation, and
16 disposition of complaints by an aggrieved W non-
17 immigrant respecting a violation of this section.

18 “(2) FILING DEADLINE.—No investigation or
19 hearing shall be conducted on a complaint concerning
20 a violation under this section unless the complaint
21 was filed not later than 6 months after the date of
22 such violation.

23 “(3) REASONABLE BASIS.—The Secretary shall
24 conduct an investigation under this subsection if there
25 is reasonable basis to believe that a violation of this

1 *section has occurred. The process established under*
2 *this subsection shall provide that, not later than 30*
3 *days after a complaint is filed, the Secretary shall de-*
4 *termine if there is reasonable cause to find such a vio-*
5 *lation.*

6 *“(4) NOTICE AND HEARING.—*

7 *“(A) IN GENERAL.—Not later than 60 days*
8 *after the Secretary makes a determination of*
9 *reasonable basis under paragraph (3), the Sec-*
10 *retary shall issue a notice to the interested par-*
11 *ties and offer an opportunity for a hearing on*
12 *the complaint, in accordance with section 556 of*
13 *title 5, United States Code.*

14 *“(B) HEARING DEADLINE.—Not later than*
15 *60 days after the date of a hearing under this*
16 *paragraph, the Secretary shall make a finding*
17 *on the matter.*

18 *“(5) ATTORNEY’S FEES.—*

19 *“(A) AWARD.—A complainant who prevails*
20 *in an action under this subsection with respect*
21 *to a claim related to wages or compensation for*
22 *employment, or a claim for a violation of sub-*
23 *section (l) or (m), shall be entitled to an award*
24 *of reasonable attorney’s fees and costs.*

1 “(B) *FRIVOLOUS COMPLAINTS.*—A com-
2 plainant who files a frivolous complaint for an
3 improper purpose under this subsection shall be
4 liable for the reasonable attorney’s fees and costs
5 of the person named in the complaint.

6 “(6) *POWER OF THE SECRETARY.*—The Sec-
7 retary may bring an action in any court of com-
8 petent jurisdiction—

9 “(A) to seek remedial action, including in-
10 junctive relief;

11 “(B) to recover the damages described in
12 this subsection and subsection (o); or

13 “(C) to ensure compliance with terms and
14 conditions described in subsection (l)(6).

15 “(7) *OTHER RIGHTS OF EMPLOYEES.*—The rights
16 and remedies provided to W nonimmigrants under
17 this section are in addition to any other contractual
18 or statutory rights and remedies of the workers, and
19 are not intended to alter or affect such rights and
20 remedies.

21 “(o) *PENALTIES.*—

22 “(1) *IN GENERAL.*—If, after notice and an op-
23 portunity for a hearing, the Secretary finds a viola-
24 tion of this section, the Secretary may impose admin-
25 istrative remedies and penalties, including—

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1 “(A) *back wages;*

2 “(B) *benefits; and*

3 “(C) *civil monetary penalties.*

4 “(2) *CIVIL PENALTIES.—The Secretary may im-*
5 *pose, as a civil penalty—*

6 “(A) *for a violation of this subsection—*

7 “(i) *a fine in an amount not more*
8 *than \$2,000 per violation per affected work-*
9 *er and \$4,000 per violation per affected*
10 *worker for each subsequent violation;*

11 “(ii) *if the violation was willful, a fine*
12 *in an amount not more than \$5,000 per*
13 *violation per affected worker; and*

14 “(iii) *if the violation was willful and*
15 *if in the course of such violation a United*
16 *States worker was harmed, a fine in an*
17 *amount not more than \$25,000 per viola-*
18 *tion per affected worker; or*

19 “(B) *for knowingly failing to materially*
20 *comply with the terms of representations made*
21 *in petitions, applications, certifications, or attes-*
22 *tations under this section—*

23 “(i) *a fine in an amount not more*
24 *than \$4,000 per aggrieved worker; and*

1 “(ii) upon the occasion of a third of-
2 fense of failure to comply with representa-
3 tions, a fine in an amount not to exceed
4 \$5,000 per affected worker and designation
5 as an ineligible employer, recruiter, or
6 broker for purposes of any immigrant or
7 nonimmigrant program.

8 “(3) *CRIMINAL PENALTY.*—Any person who
9 knowingly misrepresents the number of full-time
10 equivalent employees of an employer or the number of
11 employees of a person who are United States workers
12 for the purpose of reducing a fee under subsection
13 (e)(6) or avoiding the limitation in subsection (e)(7),
14 shall be fined in accordance with title 18, United
15 States Code, in an amount up to \$25,000 or impris-
16 oned not more than 1 year, or both.

17 “(p) *MONITORING.*—

18 “(1) *REQUIREMENT TO MONITOR.*—The Sec-
19 retary shall monitor the movement of W non-
20 immigrants in registered positions through—

21 “(A) the Employment Verification System
22 described in section 274A(d); and

23 “(B) the electronic monitoring system de-
24 scribed in paragraph (2).

25 “(2) *ELECTRONIC MONITORING SYSTEM.*—

1 “(A) *REQUIREMENT FOR SYSTEM.*—*The*
2 *Secretary, through U.S. Citizenship and Imm-*
3 *gration Services, shall implement an electronic*
4 *monitoring system to monitor presence and em-*
5 *ployment of W nonimmigrants, including a re-*
6 *quirement that registered employers update the*
7 *system when W nonimmigrants start and end*
8 *employment in registered positions.*

9 “(B) *SYSTEM DESCRIPTION.*—*Such system*
10 *shall be modeled on the Student and Exchange*
11 *Visitor Information System (SEVIS) and*
12 *SEVIS II tracking system of U.S. Immigration*
13 *and Customs Enforcement.*

14 “(C) *INTERACTION WITH REGISTRY.*—*Such*
15 *system shall interact with the registry referred to*
16 *in subsection (e)(1)(F) to ensure that the Sec-*
17 *retary designates and updates approved reg-*
18 *istered positions as being filled or unfilled.”.*

19 “(2) *TABLE OF CONTENTS AMENDMENT.*—*The*
20 *table of contents in the first section (8 U.S.C. 1101*
21 *et seq.) is amended by adding after the item relating*
22 *to section 219 the following:*

 “*Sec. 220. Admission of W nonimmigrant workers.*”.

23 “(b) *INTENTION TO ABANDON FOREIGN RESIDENCE.*—
24 *Section 214(h) (8 U.S.C. 1184(h)) is amended by striking*
25 *“or (V)” and inserting “(V), or (W)”.*

1 ***Subtitle H—Investing in New Ven-***
2 ***ture, Entrepreneurial Startups,***
3 ***and Technologies***

4 **SEC. 4801. NONIMMIGRANT INVEST VISAS.**

5 (a) *INVEST NONIMMIGRANT CATEGORY.*—Section
6 *101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections*
7 *2231, 2308, 2309, 3201, 4402, 4504, 4601, and 4702, is fur-*
8 *ther amended by inserting after subparagraph (W) the fol-*
9 *lowing:*

10 “(X) *in accordance with the definitions in*
11 *section 203(b)(6)(A), a qualified entrepreneur*
12 *who has demonstrated that, during the 3-year*
13 *period ending on the date on which the alien*
14 *filed an initial petition for nonimmigrant status*
15 *described in this clause—*

16 “(i) *a qualified venture capitalist, a*
17 *qualified super angel investor, a qualified*
18 *government entity, a qualified community*
19 *development financial institution, qualified*
20 *startup accelerator, or such other type of en-*
21 *tity or investors, as determined by the Sec-*
22 *retary, or any combination of such entities*
23 *or investors, has made a qualified invest-*
24 *ment or combination of qualified invest-*

1 ments of not less than \$100,000 in total in
2 the alien's United States business entity; or
3 “(ii) the alien's United States business
4 entity has created no fewer than 3 qualified
5 jobs and during the 2-year period ending on
6 such date has generated not less than
7 \$250,000 in annual revenue arising from
8 business conducted in the United States;
9 or”.

10 (b) *ADMISSION OF INVEST NONIMMIGRANTS.*—*Sec-*
11 *tion 214 (8 U.S.C. 1184) is amended by adding at the end*
12 *the following:*

13 “(s) *INVEST NONIMMIGRANT VISAS.*—

14 “(1) *DEFINITIONS.*—*The definitions in section*
15 *203(b)(6)(A) apply to this subsection.*

16 “(2) *INITIAL PERIOD OF AUTHORIZED ADMIS-*
17 *SION.*—*The initial period of authorized status as a*
18 *nonimmigrant described in section 101(a)(15)(X)*
19 *shall be for an initial 3-year period.*

20 “(3) *RENEWAL OF ADMISSION.*—*Subject to para-*
21 *graph (4), the initial period of authorized non-*
22 *immigrant status described in paragraph (2) may be*
23 *renewed for additional 3-year periods if during the*
24 *most recent 3-year period that the alien was granted*
25 *such status—*

1 “(A) *the alien’s United States business enti-*
2 *ty has created no fewer than 3 qualified jobs and*
3 *a qualified venture capitalist, a qualified super*
4 *angel investor, a qualified government entity, a*
5 *qualified community development financial in-*
6 *stitution, qualified startup accelerator, or such*
7 *other type of entity or investors, as determined*
8 *by the Secretary, or any combination of such en-*
9 *tities or investors, has made a qualified invest-*
10 *ment or combination of qualified investments of*
11 *not less than \$250,000 in total to the alien’s*
12 *United States business entity; or*

13 “(B) *the alien’s United States business enti-*
14 *ty has created no fewer than 3 qualified jobs*
15 *and, during the 2-year period ending on the date*
16 *that the alien petitioned for an extension, has*
17 *generated not less than \$250,000 in annual rev-*
18 *enue arising from business conducted within the*
19 *United States.*

20 “(4) *WAIVER OF RENEWAL REQUIREMENTS.—*
21 *The Secretary may renew an alien’s status as a non-*
22 *immigrant described in section 101(a)(15)(X) for not*
23 *more than 1 year at a time, up to an aggregate of*
24 *2 years if the alien—*

1853

1 “(A) does not meet the criteria under para-
2 graph (3); and

3 “(B) meets the criteria established by the
4 Secretary, in consultation with the Secretary of
5 Commerce, for approving renewals under this
6 subsection, which shall include a finding that—

7 “(i) the alien has made substantial
8 progress in meeting such criteria; and

9 “(ii) such renewal is economically ben-
10 eficial to the United States.

11 “(5) *ATTESTATION.*—The Secretary may require
12 an alien seeking status as a nonimmigrant described
13 in section 101(a)(15)(X) to attest, under penalty of
14 perjury, that the alien meets the application criteria.

15 “(6) *X-1 VISA FEE.*—In addition to processing
16 fees, the Secretary shall collect a \$1,000 fee from each
17 nonimmigrant admitted under section 101(a)(15)(X).
18 Fees collected under this paragraph shall be deposited
19 into the Comprehensive Immigration Reform Trust
20 Fund established under section 6(a)(1) of the Illegal
21 Immigration Reform and Immigrant Responsibility
22 Act of 1996.”.

23 **SEC. 4802. INVEST IMMIGRANT VISA.**

24 Section 203(b) (8 U.S.C. 1153(b)) is amended—

1 (1) *by redesignating paragraph (6) as para-*
2 *graph (7); and*

3 (2) *by inserting after paragraph (5) the fol-*
4 *lowing:*

5 “(6) *INVEST IMMIGRANTS.—*

6 “(A) *DEFINITIONS.—In this paragraph, sec-*
7 *tion 101(a)(15)(X), and section 214(s):*

8 “(i) *QUALIFIED COMMUNITY DEVELOP-*
9 *MENT FINANCIAL INSTITUTION.—The term*
10 *‘qualified community development financial*
11 *institution’ is defined as provided under*
12 *section 1805.201 45D(c) of title 12, Code of*
13 *Federal Regulations, or any similar suc-*
14 *cessor regulations.*

15 “(ii) *QUALIFIED ENTREPRENEUR.—*
16 *The term ‘qualified entrepreneur’ means an*
17 *individual who—*

18 “(I) *has a significant ownership*
19 *interest, which need not constitute a*
20 *majority interest, in a United States*
21 *business entity;*

22 “(II) *is employed in a senior exec-*
23 *utive position of such United States*
24 *business entity;*

1855

1 “(III) submits a business plan to
2 U.S. Citizenship and Immigration
3 Services; and

4 “(IV) had a substantial role in
5 the founding or early-stage growth and
6 development of such United States
7 business entity.

8 “(iii) QUALIFIED GOVERNMENT ENTI-
9 TY.—The term ‘qualified government entity’
10 means an agency or instrumentality of the
11 United States or of a State, local, or tribal
12 government.

13 “(iv) QUALIFIED INVESTMENT.—The
14 term ‘qualified investment’—

15 “(I) means an investment in a
16 qualified entrepreneur’s United States
17 business entity that is—

18 “(aa) a purchase from the
19 United States business entity or
20 equity or convertible debt issued
21 by such entity;

22 “(bb) a secured loan;

23 “(cc) a convertible debt note;

24 “(dd) a public securities of-
25 fering;

1856

1 “(ee) a research and develop-
2 ment award from a qualified gov-
3 ernment entity to the United
4 States entity;

5 “(ff) other investment deter-
6 mined appropriate by the Sec-
7 retary; or

8 “(gg) a combination of the
9 investments described in items
10 (aa) through (ff); and

11 “(II) may not include an invest-
12 ment from such qualified entrepreneur,
13 the parents, spouse, son, or daughter of
14 such qualified entrepreneur, or from
15 any corporation, company, association,
16 firm, partnership, society, or joint
17 stock company over which such quali-
18 fied entrepreneur has a substantial
19 ownership interest.

20 “(v) **QUALIFIED JOB.**—The term
21 ‘qualified job’ means a full-time position of
22 a United States business entity owned by a
23 qualified entrepreneur that—

24 “(I) is located in the United
25 States;

1857

1 “(II) has been filled for at least 2
2 years by an individual who is not the
3 qualified entrepreneur or the spouse,
4 son, or daughter of the qualified entre-
5 preneur; and

6 “(III) pays a wage that is not less
7 than 250 percent of the Federal min-
8 imum wage.

9 “(vi) *QUALIFIED STARTUP ACCEL-*
10 *ERATOR.—The term ‘qualified startup accel-*
11 *erator’ means a corporation, company, asso-*
12 *ciation, firm, partnership, society, or joint*
13 *stock company that—*

14 “(I) is organized under the laws
15 of the United States or any State and
16 conducts business in the United States;

17 “(II) in the ordinary course of
18 business, provides a program of train-
19 ing, mentorship, and logistical support
20 to assist entrepreneurs in growing
21 their businesses;

22 “(III) is managed by individuals,
23 the majority of whom are citizens of
24 the United States or aliens lawfully
25 admitted for permanent residence;

1858

1 “(IV)(aa) regularly acquires an
2 equity interest in companies that par-
3 ticipate in its programs, where the ma-
4 jority of the capital so invested is com-
5 mitted from individuals who are
6 United States citizens or aliens law-
7 fully admitted for permanent residence,
8 or from entities organized under the
9 laws of the United States or any State;
10 or

11 “(bb) is an entity that has re-
12 ceived not less than \$250,000 in fund-
13 ing from a qualified government entity
14 or entities during the previous 5 years
15 and regularly makes grants to compa-
16 nies that participate in its programs
17 (in which case, such grant shall be
18 treated as a qualified investment for
19 purposes of clause (iv));

20 “(V) during the previous 5 years,
21 has acquired an equity interest in, or,
22 in the case of an entity described in
23 subclause (IV)(bb), regularly made
24 grants to, not fewer than 10 United
25 States business entities that have par-

1859

1 *anticipated in its programs and that*
2 *have—*

3 *“(aa) each secured at least*
4 *\$100,000 in initial investments;*
5 *or*

6 *“(bb) during any 2-year pe-*
7 *riod following the date of such ac-*
8 *quisition, generated not less than*
9 *\$500,000 in aggregate annual rev-*
10 *enue within the United States;*

11 *“(VI) has its primary location in*
12 *the United States; and*

13 *“(VII) satisfies such other criteria*
14 *as may be established by the Secretary.*

15 *“(vii) QUALIFIED SUPER ANGEL INVES-*
16 *TOR.—The term ‘qualified super angel in-*
17 *vestor’ 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 Federal*
23 *Regulations, or any similar successor*
24 *regulation, investing the funds owned*
25 *by such individual or organized group*

1860

1 *in a qualified entrepreneur's United*
2 *States business entity;*

3 *“(II)(aa) if an individual, is a*
4 *citizen 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 States*
11 *or aliens lawfully admitted for perma-*
12 *nent 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, in*
18 *United States business entities which*
19 *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*

1861

1 *section 2510.3–101(d) of title 29,*
2 *Code of Federal Regulations (or*
3 *any successor to such regulation));*
4 *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 regu-*
9 *lation), in its portfolio companies;*

10 *“(II) that has capital commit-*
11 *ments of not less than \$10,000,000;*
12 *and*

13 *“(III) the investment adviser, that*
14 *is registered under the Investment Ad-*
15 *visers Act of 1940 (15 U.S.C. 80b–2),*
16 *for which—*

17 *“(aa) has its primary office*
18 *location in the United States;*

19 *“(bb) is owned, directly or*
20 *indirectly, by individuals, the ma-*
21 *jority of whom are citizens of the*
22 *United States or aliens lawfully*
23 *admitted for permanent residence*
24 *in the United States;*

1862

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 entity
5 or a similar fund or entity with
6 respect to at least 2 investments of
7 not less than \$500,000 made by
8 such entity or similar fund or en-
9 tity during each of the most recent
10 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’ includes*
17 *the position of chief executive officer, chief*
18 *technology officer, and chief operating offi-*
19 *cer.*

20 “(xi) *UNITED STATES BUSINESS ENTI-*
21 *TY*.—*The term ‘United States business enti-*
22 *ty’ means any corporation, company, asso-*
23 *ciation, firm, partnership, society, or joint*
24 *stock company that is organized under the*
25 *laws of the United States or any State and*

1863

1 *that conducts business in the United States*
2 *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 *defined 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. 80a-*
12 *3); or*

13 “(IV) *an issuer that would be an*
14 *investment company but for an exemp-*
15 *tion 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 available,*
24 *in a number not to exceed 10,000 for each fiscal*
25 *year, to qualified immigrants seeking to enter*

1864

1 *the United States for the purpose of creating new*
2 *businesses, as described in this paragraph.*

3 “(C) *ELIGIBILITY.—An alien is eligible for*
4 *a visa under this paragraph if—*

5 “(i)(I) *the alien is a qualified entre-*
6 *preneur;*

7 “(II) *the alien maintained valid non-*
8 *immigrant status in the United States for*
9 *at least 2 years;*

10 “(III) *during the 3-year period ending*
11 *on the date the alien files an initial petition*
12 *for such status under this section—*

13 “(aa)(AA) *the alien has a signifi-*
14 *cant ownership in a United States*
15 *business entity that has created no*
16 *fewer than 5 qualified jobs; and*

17 “(BB) *a qualified venture capi-*
18 *talist, a qualified super angel investor,*
19 *a qualified government entity, a quali-*
20 *fied community development financial*
21 *institution, qualified startup accel-*
22 *erator, or such other entity or type of*
23 *investors, as determined by the Sec-*
24 *retary, or any combination of such en-*
25 *tities or investors, has devoted a quali-*

1865

1 *fied investment or combination of*
2 *qualified investments of not less than*
3 *\$500,000 in total to the alien's United*
4 *States business entity; or*

5 *“(bb)(AA) the alien has a signifi-*
6 *cant ownership interest in a United*
7 *States business entity that has created*
8 *no fewer than 5 qualified jobs; and*

9 *“(BB) during the 2-year period*
10 *ending on such date has generated not*
11 *less than \$750,000 in annual revenue*
12 *within the United States; and*

13 *“(IV) no more than 2 other aliens have*
14 *received nonimmigrant status under this*
15 *section on the basis of an alien's ownership*
16 *of such United States business entity;*

17 *“(ii)(I) the alien is a qualified entre-*
18 *preneur;*

19 *“(II) the alien maintained valid non-*
20 *immigrant status in the United States for*
21 *at least 3 years prior to the date of filing*
22 *an application for such status;*

23 *“(III) the alien holds an advanced de-*
24 *gree in a field of science, technology, engi-*

1866

1 *neering, or mathematics, approved by the*
2 *Secretary; and*

3 *“(IV) during the 3-year period ending*
4 *on the date the alien files an initial petition*
5 *for such status under this section—*

6 *“(aa)(AA) the alien has a signifi-*
7 *cant ownership interest in a United*
8 *States business entity that has created*
9 *no fewer than 4 qualified jobs; and*

10 *“(BB) a qualified venture capi-*
11 *talist, a qualified super angel investor,*
12 *a qualified government entity, a quali-*
13 *fied community development financial*
14 *institution, qualified startup accel-*
15 *erator, or such other entity or type of*
16 *investors, as determined by the Sec-*
17 *retary, or any combination of such en-*
18 *tities or investors, has devoted a quali-*
19 *fied investment or combination of*
20 *qualified investments of not less than*
21 *\$500,000 in total to the alien’s United*
22 *States business entity; or*

23 *“(bb)(AA) the alien has a signifi-*
24 *cant ownership interest in a United*

1867

1 *States business entity that has created*
2 *no fewer than 3 qualified jobs; and*

3 *“(BB) during the 2-year period*
4 *ending on such date has generated not*
5 *less than \$500,000 in annual revenue*
6 *within the United States; and*

7 *“(V) no more than 3 other aliens have*
8 *received nonimmigrant status under this*
9 *section on the basis of an alien’s ownership*
10 *of such United States business entity.*

11 *“(D) ATTESTATION.—The Secretary may*
12 *require an alien seeking a visa under this para-*
13 *graph to attest, under penalties of perjury, to the*
14 *alien’s qualifications.”.*

15 **SEC. 4803. ADMINISTRATION AND OVERSIGHT.**

16 *(a) REGULATIONS.—Not later than 16 months after the*
17 *date of the enactment of this Act, the Secretary, in consulta-*
18 *tion with the Secretary of Commerce, the Administrator of*
19 *the Small Business Administration, and other heads of*
20 *other relevant Federal agencies and departments, shall pro-*
21 *mulgate regulations to carry out the amendments made by*
22 *this subtitle. Such regulations shall ensure that such amend-*
23 *ments are implemented in a manner that is consistent with*
24 *the protection of national security and promotion of United*
25 *States economic growth, job creation, and competitiveness.*

1 **(b) MODIFICATION OF DOLLAR AMOUNTS.—**

2 **(1) IN GENERAL.—***The Secretary may from time*
3 *to time prescribe regulations increasing or decreasing*
4 *any dollar amount specified in section 203(b)(6) of*
5 *the Immigration and Nationality Act, as added by*
6 *section 4802, section 101(a)(15)(X) of such Act, as*
7 *added by section 4801, or section 214(s), as added by*
8 *section 4801.*

9 **(2) AUTOMATIC ADJUSTMENT.—***Unless a dollar*
10 *amount referred to in paragraph (1) is adjusted by*
11 *the Secretary under paragraph (1), such dollar*
12 *amount shall automatically adjust on January 1,*
13 *2016, by the percentage change in the Consumer Price*
14 *Index (CPI–U) during fiscal year 2015, and on every*
15 *fifth subsequent January 1 by the percentage change*
16 *in the CPI–U during the previous 5 fiscal years, for*
17 *any petition filed to classify an alien under this*
18 *paragraph on or after the date of each automatic ad-*
19 *justment.*

20 **(c) OTHER AUTHORITY.—***The Secretary, in the Sec-*
21 *retary’s unreviewable discretion, may deny or revoke the*
22 *approval of a petition seeking classification of an alien*
23 *under paragraph (6) of section 203(b) of the Immigration*
24 *and Nationality Act, as added by section 4802, or any other*
25 *petition, application, or benefit based upon the previous or*

1 *concurrent filing or approval of a petition for classification*
2 *of an alien under such paragraph (6), if the Secretary de-*
3 *termines, in the Secretary's sole and unreviewable discre-*
4 *tion, that the approval or continuation of such petition, ap-*
5 *plication, or benefit is contrary to the national interest of*
6 *the United States or for other good cause.*

7 *(d) REPORTS.—Once every 3 years, the Secretary shall*
8 *submit to Congress a report on this subtitle and the amend-*
9 *ments made by this subtitle. Each such report shall in-*
10 *clude—*

11 *(1) the number and percentage of entrepreneurs*
12 *able to meet thresholds for nonimmigrant renewal and*
13 *adjustment to green card status under the amend-*
14 *ments made by this subtitle;*

15 *(2) an analysis of the program's economic im-*
16 *act including job and revenue creation, increased in-*
17 *vestments and growth within business sectors and re-*
18 *gions;*

19 *(3) a description and breakdown of types of busi-*
20 *nesses that entrepreneurs granted nonimmigrant or*
21 *immigrant status are creating;*

22 *(4) for each report following the Secretary's ini-*
23 *tial report submitted under this subsection, a descrip-*
24 *tion of the percentage of the businesses initially cre-*
25 *ated by the entrepreneurs granted immigrant and*

1 *nonimmigrant status under this subtitle and the*
2 *amendments made by this subtitle, that are still in*
3 *operation; and*

4 *(5) any recommendations for improving the pro-*
5 *gram established by this subtitle and the amendments*
6 *made by this subtitle.*

7 **SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE-**
8 **GIONAL CENTER PROGRAM.**

9 *(a) REPEAL.—Section 610 of the Departments of Com-*
10 *merce, Justice, and State, the Judiciary, and Related Agen-*
11 *cies Appropriations Act, 1993 (8 U.S.C. 1153 note) is re-*
12 *pealed.*

13 *(b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C.*
14 *1153(b)(5)) is amended by adding at the end the following:*

15 *“(E) REGIONAL CENTER PROGRAM.—*

16 *“(i) IN GENERAL.—Visas under this*
17 *paragraph shall be made available to quali-*
18 *fied immigrants participating in a pro-*
19 *gram implementing this paragraph that in-*
20 *volves a regional center in the United*
21 *States, which has been designated by the*
22 *Secretary of Homeland Security, in con-*
23 *sultation with the Secretary of Commerce,*
24 *on the basis of a general proposal for the*
25 *promotion of economic growth, including—*

1871

1 “(I) increased export sales;

2 “(II) improved regional produc-
3 tivity;

4 “(III) job creation; or

5 “(IV) increased domestic capital
6 investment.

7 “(ii) *ESTABLISHMENT OF A REGIONAL*
8 *CENTER.*—A regional center shall have ju-
9 risdiction over a defined geographic area,
10 which shall be described in the proposal and
11 consistent with the purpose of concentrating
12 pooled investment in defined economic
13 zones. The establishment of a regional center
14 may be based on general predictions, con-
15 tained in the proposal, concerning—

16 “(I) the kinds of commercial en-
17 terprises that will receive investments
18 from aliens;

19 “(II) the jobs that will be created
20 directly or indirectly as a result of
21 such investments; and

22 “(III) other positive economic ef-
23 fects such investments will have.

24 “(iii) *COMPLIANCE.*—In determining
25 compliance with subparagraph (A)(ii), the

1872

1 *Secretary of Homeland Security shall per-*
2 *mit aliens admitted under the program de-*
3 *scribed in this subparagraph to establish*
4 *reasonable methodologies for determining*
5 *the number of jobs created by the program,*
6 *including jobs estimated to have been cre-*
7 *ated indirectly through—*

8 *“(I) revenues generated from in-*
9 *creased exports, improved regional pro-*
10 *ductivity, job creation; or*

11 *“(II) increased domestic capital*
12 *investment resulting from the program,*
13 *including jobs created outside of the ge-*
14 *ographic boundary of the regional cen-*
15 *ter as a result of the immigrant’s in-*
16 *vestment in regional center-affiliated*
17 *commercial enterprises.*

18 *“(iv) INDIRECT JOB CREATION.—The*
19 *Secretary shall permit immigrants admit-*
20 *ted under this paragraph to satisfy the re-*
21 *quirements under subparagraph (A)(ii)*
22 *with jobs that are estimated to be created*
23 *indirectly through investment under this*
24 *paragraph in accordance with this subpara-*
25 *graph.*

1873

1 “(F) *PREAPPROVAL OF BUSINESS PLANS*
2 *FOR REGIONAL CENTER INVESTMENTS.*—

3 “(i) *PETITION.*—*Before the filing of a*
4 *petition under this subparagraph by an*
5 *alien investor, a commercial enterprise af-*
6 *filiated with a regional center may file a*
7 *petition with the Secretary of Homeland*
8 *Security to preapprove a particular invest-*
9 *ment in the commercial enterprise, as pro-*
10 *vided in—*

11 “(I) *a business plan for a specific*
12 *capital investment project;*

13 “(II) *investment documents, such*
14 *as subscription, investment, partner-*
15 *ship, and operating agreements; and*

16 “(III) *a credible economic anal-*
17 *ysis regarding estimated job creation*
18 *that is based upon reasonable meth-*
19 *odologies.*

20 “(ii) *PREAPPROVAL PROCEDURE.*—*The*
21 *Secretary shall establish a process to facili-*
22 *tate the preapproval of business plans under*
23 *this subparagraph related to investment in*
24 *a regional center commercial enterprise,*
25 *which shall include an opportunity for the*

1874

1 *applicant to address and cure any defi-*
2 *ciencies identified by the Secretary in the*
3 *applicant's business plan, investment docu-*
4 *ments, or statement regarding job creation*
5 *prior to a final determination. The Sec-*
6 *retary shall impose a fee for the use of the*
7 *process described in this clause sufficient to*
8 *recover the costs of its administration.*

9 “(iii) *EFFECT OF PREAPPROVAL OF*
10 *BUSINESS PLAN FOR INVESTMENT IN RE-*
11 *GIONAL CENTER COMMERCIAL ENTER-*
12 *PRISE.—The preapproval of a petition*
13 *under this subparagraph shall be binding*
14 *for purposes of the adjudication of petitions*
15 *filed under this subparagraph by immi-*
16 *grants investing in the commercial enter-*
17 *prise unless the Secretary determines that*
18 *there is evidence of fraud, misrepresenta-*
19 *tion, criminal misuse, a threat to national*
20 *security, or other evidence affecting pro-*
21 *gram eligibility that was not disclosed by*
22 *the petitioner during the preapproval proc-*
23 *ess.*

24 “(iv) *EXPEDITED PROCESSING OPTION*
25 *FOR ALIEN INVESTOR PETITIONS AFFILI-*

1875

1 *ATED WITH PREAPPROVED BUSINESS*
2 *PLANS.—The Secretary may establish a pre-*
3 *mium processing option for alien investors*
4 *who are investing in a commercial enter-*
5 *prise that has received preapproval under*
6 *this subparagraph and may impose a fee for*
7 *the use of that option sufficient to recover*
8 *all costs of the option.*

9 *“(v) CONSIDERATION OF CRIMINAL AC-*
10 *TIVITY IN ESTABLISHING ELIGIBILITY CRI-*
11 *TERIA.—The Secretary shall consider the*
12 *potential for fraud, misrepresentation,*
13 *criminal misuse, and threats to national se-*
14 *curity in establishing eligibility criteria for*
15 *any program the Secretary may establish*
16 *under this subparagraph.*

17 *“(G) REGIONAL CENTER FINANCIAL STATE-*
18 *MENTS.—*

19 *“(i) IN GENERAL.—Each regional cen-*
20 *ter designated under subparagraph (E)*
21 *shall annually submit, to the Director of*
22 *U.S. Citizenship and Immigration Services*
23 *(referred to in this subparagraph as the ‘Di-*
24 *rector’), in a manner prescribed by the Sec-*

1877

1 “(ff) a certification by the re-
2 gional center that such statements
3 are accurate.

4 “(ii) AMENDMENT OF FINANCIAL
5 STATEMENTS.—If the Director determines
6 that a financial statement required under
7 clause (i) is deficient, the Director may re-
8 quire the regional center to amend or sup-
9 plement such financial statement.

10 “(iii) SANCTIONS.—

11 “(I) EFFECT OF VIOLATION.—If
12 the Director determines, after review-
13 ing the financial statements submitted
14 under clause (i), that a regional center,
15 director, or other individual involved
16 with a regional center (other than an
17 alien investor) has violated any re-
18 quirement under clause (i) or that the
19 regional center is conducting itself in a
20 manner inconsistent with its designa-
21 tion, the Director may sanction the
22 violating entity or individual under
23 subclause (II).

24 “(II) AUTHORIZED SANCTIONS.—
25 The Director shall establish a grad-

1878

1 *uated set of sanctions for violations re-*
2 *ferred to in subclause (I), including—*

3 *“(aa) fines equal to not more*
4 *than 5 percent of the total capital*
5 *invested by immigrant investors*
6 *in the commercial enterprise’s ap-*
7 *proved business plan;*

8 *“(bb) temporary suspension*
9 *from participation in the pro-*
10 *gram described in subparagraph*
11 *(E), which may be lifted by the*
12 *Director if the individual or enti-*
13 *ty cures the alleged violation after*
14 *being provided such an oppor-*
15 *tunity by the Director;*

16 *“(cc) permanent bar from*
17 *program participation for 1 or*
18 *more individuals affiliated with*
19 *the regional center; and*

20 *“(dd) termination of regional*
21 *center status.*

22 *“(H) BONA FIDES OF PERSONS INVOLVED IN*
23 *REGIONAL CENTERS.—*

24 *“(i) IN GENERAL.—No person shall be*
25 *permitted by any regional center to be in-*

1879

1 *involved with the regional center as its prin-*
2 *cipal, representative, administrator, owner,*
3 *officer, board member, manager, executive,*
4 *general partner, fiduciary, marketer, pro-*
5 *moter, or other similar position of sub-*
6 *stantive authority for the operations, man-*
7 *agement or promotion of the regional center*
8 *if the Secretary of Homeland Security—*

9 *“(I) determines such person has*
10 *been found liable within the previous 5*
11 *years for any criminal or civil viola-*
12 *tion of any law relating to fraud or de-*
13 *ceit, or at any time if such violation*
14 *involved a criminal conviction with a*
15 *term of imprisonment of at least 1*
16 *year or a criminal or civil violation of*
17 *any law or agency regulation in con-*
18 *nection with the purchase or sale of a*
19 *security; or*

20 *“(II) knows or has reasonable*
21 *cause to believe that the person is en-*
22 *gaged in, has ever been engaged in, or*
23 *seeks to engage in any—*

24 *“(aa) illicit trafficking in*
25 *any controlled substance;*

1880

1 “(bb) activity relating to es-
2 pionage or sabotage;

3 “(cc) activity related to
4 money laundering (as described in
5 section 1956 or 1957 of title 18,
6 United States Code);

7 “(dd) terrorist activity (as
8 defined in clauses (iii) and (iv) of
9 section 212(a)(3)(B));

10 “(ee) human trafficking or
11 human rights offense; or

12 “(ff) violation of any statute,
13 regulation, or Executive Order re-
14 garding foreign financial trans-
15 actions or foreign asset control.

16 “(ii) INFORMATION REQUIRED.—The
17 Secretary shall require such attestations
18 and information, including, the submission
19 of fingerprints to the Federal Bureau of In-
20 vestigation, and shall perform such crimi-
21 nal record checks and other background
22 checks with respect to a regional center, and
23 persons involved in a regional center as de-
24 scribed in clause (i), as the Secretary con-
25 siders appropriate to determine whether the

1 regional center is in compliance with clause
2 (i). The Secretary may require the informa-
3 tion and attestations described in this
4 clause from such regional center, and any
5 person involved in the regional center, at
6 any time on or after the date of the enact-
7 ment of the Border Security, Economic Op-
8 portunity, and Immigration Modernization
9 Act.

10 “(iii) *TERMINATION.*—The Secretary is
11 authorized, in his or her unreviewable dis-
12 cretion, to terminate any regional center
13 from the program under this paragraph if
14 he or she determines that—

15 “(I) the regional center is in vio-
16 lation of clause (i);

17 “(II) the regional center or any
18 person involved with the regional cen-
19 ter has provided any false attestation
20 or information under clause (ii);

21 “(III) the regional center or any
22 person involved with the regional cen-
23 ter fails to provide an attestation or
24 information requested by the Secretary
25 under clause (ii); or

1882

1 “(IV) *the regional center or any*
2 *person involved with the regional cen-*
3 *ter is engaged in fraud, misrepresenta-*
4 *tion, criminal misuse, or threats to na-*
5 *tional security.*

6 “(I) *REGIONAL CENTER COMPLIANCE WITH*
7 *SECURITIES LAWS.—*

8 “(i) *CERTIFICATION REQUIRED.—The*
9 *Secretary of Homeland Security shall not*
10 *approve an application for regional center*
11 *designation or regional center amendment*
12 *that does not certify that the regional center*
13 *and, to the best knowledge of the applicant,*
14 *all parties to the regional center are in, and*
15 *will maintain, compliance with the securi-*
16 *ties laws of the United States.*

17 “(ii) *TERMINATION OR SUSPENSION.—*
18 *The Secretary shall terminate the designa-*
19 *tion of any regional center that does not*
20 *provide the certification described in sub-*
21 *clause (i) on an annual basis. In addition*
22 *to any other authority provided to the Sec-*
23 *retary regarding the regional center pro-*
24 *gram described in subparagraph (E), the*
25 *Secretary may, in his or her unreviewable*

1883

1 *discretion, suspend or terminate the des-*
2 *ignation of any regional center if he or she*
3 *determines that the regional center or any*
4 *party to the regional center—*

5 *“(I) is permanently or tempo-*
6 *rarily enjoined by order, judgment, or*
7 *decree of any court of competent juris-*
8 *isdiction in connection with the pur-*
9 *chase or sale of a security;*

10 *“(II) is subject to any final order*
11 *of the Securities and Exchange Com-*
12 *mission that—*

13 *“(aa) bars such person from*
14 *association with an entity regu-*
15 *lated by the Securities and Ex-*
16 *change Commission; or*

17 *“(bb) constitutes a final*
18 *order based on violations in con-*
19 *nection with the purchase or sale*
20 *of a security; or*

21 *“(III) knowingly submitted or*
22 *caused to be submitted a certification*
23 *described in clause (i) that contained*
24 *an untrue statement of a material fact*
25 *or omitted to state a material fact nec-*

1885

1 “(i) a petition seeking classification of
2 an alien as an alien investor under this
3 paragraph;

4 “(ii) a petition to remove conditions
5 under section 216A before granting lawful
6 permanent resident status or any other peti-
7 tion, application, or benefit based upon the
8 previous or concurrent filing or approval of
9 a petition for classification of an alien
10 under this paragraph; or

11 “(iii) an application for designation
12 as a regional center.”.

13 (c) ASSISTANCE BY THE SECRETARY OF COMMERCE.—

14 (1) IN GENERAL.—The Secretary of Commerce,
15 upon the request of the Secretary, shall provide con-
16 sultation assistance for determining whether—

17 (A) a proposed regional center should be
18 designated, terminated, or subject to other adju-
19 dicative action; or

20 (B) a petitioner or applicant for a benefit
21 under section 203(b)(5) of the Immigration and
22 Nationality Act, as amended by subsection (b),
23 has met the requirements under such paragraph
24 with respect to job creation.

1 (2) *RULEMAKING.*—*The Secretary and the Sec-*
2 *retary of Commerce may each adopt such rules and*
3 *regulations as are necessary to carry out the consulta-*
4 *tion process provided for in paragraph (1).*

5 (3) *SAVINGS PROVISION.*—*Nothing in this sub-*
6 *section shall be construed to require consultation with*
7 *the Secretary of Commerce to continue the designa-*
8 *tion of a regional center approved before the date of*
9 *the enactment of this Act.*

10 (d) *EFFECTIVE DATE.*—*The amendments made by this*
11 *section—*

12 (1) *shall be effective upon the enactment of this*
13 *Act; and*

14 (2) *shall apply to—*

15 (A) *any application to designate a regional*
16 *center, and any person involved with the re-*
17 *gional center, that is pending or approved on or*
18 *after the date of the enactment of this Act; and*

19 (B) *any regional center approved before the*
20 *date of the enactment of this Act, on or after a*
21 *delayed effective date that is 1 year after such*
22 *date of enactment with respect to any person in-*
23 *involved in the regional center on or after such de-*
24 *layed effective date.*

1887

1 **SEC. 4805. CONDITIONAL PERMANENT RESIDENT STATUS**
2 **FOR CERTAIN EMPLOYMENT-BASED IMMI-**
3 **GRANTS, SPOUSES, AND CHILDREN.**

4 *(a) IN GENERAL.—Section 216A (8 U.S.C. 1186b) is*
5 *amended to read as follows:*

6 **“SEC. 216A. CONDITIONAL PERMANENT RESIDENT STATUS**
7 **FOR CERTAIN EMPLOYMENT-BASED IMMI-**
8 **GRANTS, SPOUSES, AND CHILDREN.**

9 *“(a) IN GENERAL.—*

10 *“(1) CONDITIONAL BASIS FOR STATUS.—Not-*
11 *withstanding any other provision of this Act, employ-*
12 *ment-based immigrants (as defined in subsection (f)*
13 *(1) or (2)), alien spouses, and alien children (as de-*
14 *finied in subsection (f)(3)) shall be considered, at the*
15 *time of obtaining the status of an alien lawfully ad-*
16 *mitted for permanent residence, to have obtained such*
17 *status on a conditional basis subject to the provisions*
18 *of this section.*

19 *“(2) NOTICE OF REQUIREMENTS.—*

20 *“(A) AT TIME OF OBTAINING PERMANENT*
21 *RESIDENCE.—At the time an employment-based*
22 *immigrant, alien spouse, or alien child obtains*
23 *permanent resident status on a conditional basis*
24 *under paragraph (1), the Secretary of Homeland*
25 *Security shall provide for notice to the alien,*
26 *spouse, or child respecting the provisions of this*

1888

1 *section and the requirements of subsection (c)(1)*
2 *to have the conditional basis of such status re-*
3 *moved.*

4 “(B) *AT TIME OF REQUIRED PETITION.—In*
5 *addition, the Secretary of Homeland Security*
6 *shall attempt to provide notice to an employ-*
7 *ment-based immigrant, alien spouse, or alien*
8 *child, at or about the beginning of the 90-day pe-*
9 *riod described in subsection (d)(3), of the re-*
10 *quirements of subsection (c)(1).*

11 “(C) *EFFECT OF FAILURE TO PROVIDE NO-*
12 *TICE.—The failure of the Secretary of Homeland*
13 *Security to provide a notice under this para-*
14 *graph shall not affect the enforcement of the pro-*
15 *visions of this section with respect to an employ-*
16 *ment-based immigrant, alien spouse, or alien*
17 *child.*

18 “(b) *TERMINATION OF STATUS IF FINDING THAT*
19 *QUALIFYING EMPLOYMENT IMPROPER.—*

20 “(1) *ALIEN INVESTOR.—In the case of an alien*
21 *investor with permanent resident status on a condi-*
22 *tional basis under subsection (a), if the Secretary of*
23 *Homeland Security determines, before the second an-*
24 *niversary of the alien’s obtaining the status of lawful*
25 *admission for permanent residence, that—*

1889

1 “(A) *the investment in the commercial en-*
2 *terprise was intended as a means of evading the*
3 *immigration laws of the United States;*

4 “(B)(i) *the alien did not invest, or was not*
5 *actively in the process of investing, the requisite*
6 *capital; or*

7 “(ii) *the alien was not sustaining the ac-*
8 *tions described in clause (i) throughout the pe-*
9 *riod of the alien’s residence in the United States;*
10 *or*

11 “(C) *subject to the exception in subsection*
12 *(d)(4), the alien was otherwise not conforming to*
13 *the requirements under section 203(b)(5),*
14 *the Secretary shall so notify the alien investor and,*
15 *subject to paragraph (3), shall terminate the perma-*
16 *nent resident status of the alien (and the alien spouse*
17 *and alien child) involved as of the date of the deter-*
18 *mination.*

19 “(2) *EMPLOYEE OF A FEDERAL NATIONAL SECUR-*
20 *ITY, SCIENCE, AND TECHNOLOGY LABORATORY, CEN-*
21 *TER OR AGENCY.—In the case of an employee of a*
22 *Federal national security, science, and technology lab-*
23 *oratory, center, or agency (as defined pursuant to sec-*
24 *tion 203(b)(2)(C)) with permanent resident status on*
25 *a conditional basis under subsection (a), if the Sec-*

1890

1 *retary of Homeland Security, in consultation with*
2 *the relevant employing department or agency, deter-*
3 *mines, before the first anniversary of the alien’s ob-*
4 *taining the status of lawful admission for permanent*
5 *residence, that—*

6 *“(A) the qualifying employment was in-*
7 *tended as a means of evading the immigration*
8 *laws of the United States;*

9 *“(B) the alien has not completed or is not*
10 *likely to complete 12 months of qualifying con-*
11 *tinuous employment; or*

12 *“(C) the alien did not otherwise conform*
13 *with the requirements of section 203(b)(2),*
14 *the Secretary shall so notify the alien involved and,*
15 *subject to paragraph (3), shall terminate the perma-*
16 *nent resident status of the alien (and the alien spouse*
17 *and alien child) involved as of the date of the deter-*
18 *mination.*

19 *“(3) HEARING IN REMOVAL PROCEEDING.—Any*
20 *alien whose permanent resident status is terminated*
21 *under paragraph (1) or (2) may request a review of*
22 *such determination in a proceeding to remove the*
23 *alien. In such proceeding, the burden of proof shall be*
24 *on the Secretary of Homeland Security to establish,*
25 *by a preponderance of the evidence, that a condition*

1 *described in paragraph (1) or (2), as appropriate, is*
2 *met.*

3 “(c) *REQUIREMENTS OF TIMELY PETITION AND*
4 *INTERVIEW FOR REMOVAL OF CONDITION.—*

5 “(1) *IN GENERAL.—*

6 “(A) *PETITION AND INTERVIEW.—In order*
7 *for the conditional basis established under sub-*
8 *section (a) for an employment-based immigrant,*
9 *alien spouse, or alien child to be removed—*

10 “(i) *the employment-based immigrant*
11 *shall submit to the Secretary of Homeland*
12 *Security, during the period described in*
13 *subsection (d)(3), a petition which requests*
14 *the removal of such conditional basis and*
15 *which states, under penalty of perjury, the*
16 *facts and information described in para-*
17 *graph (1) or (2) of subsection (d), as appro-*
18 *priate; and*

19 “(ii) *in accordance with subsection*
20 *(d)(3), the employment-based immigrant*
21 *must appear for a personal interview before*
22 *an officer or employee of U.S. Citizenship*
23 *and Immigration Services respecting such*
24 *facts and information.*

1893

1 “(II) *the employment-based immi-*
2 *grant dies after the approval of a peti-*
3 *tion under section 203(b)(5); and*

4 “(iii) *the alien child shall not be*
5 *deemed ineligible for approval under section*
6 *203(b)(5) or removal of conditions under*
7 *this section if the alien child reaches 21*
8 *years of age during—*

9 “(I) *the pendency of the employ-*
10 *ment-based immigrant’s petition under*
11 *section 203(b)(5); or*

12 “(II) *conditional residency under*
13 *such section.*

14 “(D) *ADDITIONAL FEE.—Notwithstanding*
15 *any other provision under this section, the Sec-*
16 *retary may require the employment-based immi-*
17 *grant to pay an additional fee for a petition*
18 *filed under subparagraph (A)(i) that includes the*
19 *alien’s spouse and child or children.*

20 “(2) *TERMINATION OF PERMANENT RESIDENT*
21 *STATUS FOR FAILURE TO FILE PETITION OR HAVE*
22 *PERSONAL INTERVIEW.—*

23 “(A) *IN GENERAL.—In the case of an alien*
24 *with permanent resident status on a conditional*
25 *basis under subsection (a), if—*

1894

1 “(i) no petition is filed with respect to
2 the alien in accordance with the provisions
3 of paragraph (1)(A); or

4 “(ii) unless there is good cause shown,
5 the employment-based immigrant fails to
6 appear at the interview described in para-
7 graph (1)(B) (if required under subsection
8 (d)(4)),

9 the Secretary of Homeland Security shall termi-
10 nate the permanent resident status of the alien
11 (and the alien’s spouse and children if it was ob-
12 tained on a conditional basis under this section
13 or section 216) as of the second anniversary of
14 the alien’s lawful admission for permanent resi-
15 dence.

16 “(B) HEARING IN REMOVAL PROCEEDING.—
17 In any removal proceeding with respect to an
18 alien whose permanent resident status is termi-
19 nated under subparagraph (A), the burden of
20 proof shall be on the alien to establish compli-
21 ance with the conditions of paragraphs (1)(A)
22 and (1)(B).

23 “(3) DETERMINATION AFTER PETITION AND
24 INTERVIEW.—

25 “(A) IN GENERAL.—If—

1895

1 “(i) a petition is filed in accordance
2 with the provisions of paragraph (1)(A);
3 and

4 “(ii) the employment-based immigrant
5 appears at any interview described in para-
6 graph (1)(B),

7 the Secretary of Homeland Security shall make
8 a determination, not later than 90 days after the
9 date of such filing or interview (whichever is
10 later), as to whether the facts and information
11 described in paragraph (1) or (2) of subsection
12 (d), as appropriate, and alleged in the petition
13 are true.

14 “(B) REMOVAL OF CONDITIONAL BASIS IF
15 FAVORABLE DETERMINATION.—

16 “(i) HEADER.—If the Secretary of
17 Homeland Security determines with respect
18 to a petition filed by an alien investor that
19 such facts and information are true, the
20 Secretary shall so notify the alien investor
21 and shall remove the conditional basis of the
22 alien’s status effective as of the second anni-
23 versary of the alien’s lawful admission for
24 permanent residence.

1896

1 “(i) *REMOVAL OF CONDITIONAL BASIS*
2 *FOR EMPLOYEE OF A FEDERAL NATIONAL*
3 *SECURITY, SCIENCE, AND TECHNOLOGY LAB-*
4 *ORATORY, CENTER OR AGENCY.—If the Sec-*
5 *retary of Homeland Security determines*
6 *with respect to a petition filed by an em-*
7 *ployee of a Federal national security,*
8 *science, and technology laboratory, center,*
9 *or agency that such facts and information*
10 *are true, the Secretary shall so notify the*
11 *alien and shall remove the conditional basis*
12 *of the alien’s status effective as of the first*
13 *anniversary of the alien’s lawful admission*
14 *for permanent residence.*

15 “(C) *TERMINATION IF ADVERSE DETER-*
16 *MINATION.—If the Secretary of Homeland Secu-*
17 *rity determines that such facts and information*
18 *are not true, the Secretary shall so notify the*
19 *alien involved and, subject to subparagraph (D),*
20 *shall terminate the permanent resident status of*
21 *an employment-based immigrant, alien spouse,*
22 *or alien child as of the date of the determination.*

23 “(D) *HEARING IN REMOVAL PROCEEDING.—*
24 *Any alien whose permanent resident status is*
25 *terminated under subparagraph (C) may request*

1897

1 *a review of such determination in a proceeding*
2 *to remove the alien. In such proceeding, the bur-*
3 *den of proof shall be on the Secretary of Home-*
4 *land Security to establish, by a preponderance of*
5 *the evidence, that the facts and information de-*
6 *scribed in subsection (d)(1) and alleged in the*
7 *petition are not true.*

8 “(d) *DETAILS OF PETITION AND INTERVIEW.—*

9 “(1) *CONTENTS OF PETITION BY ALIEN INVES-*
10 *TOR.—Each petition filed by an alien investor under*
11 *section (c)(1)(A) shall contain facts and information*
12 *demonstrating that the alien—*

13 “(A)(i) *invested, or is actively in the process*
14 *of investing, the requisite capital; and*

15 “(ii) *sustained the actions described in*
16 *clause (i) throughout the period of the alien’s res-*
17 *idence in the United States; and*

18 “(B) *except as provided in paragraph (4),*
19 *is otherwise conforming to the requirements*
20 *under section 203(b)(5).*

21 “(2) *CONTENTS OF PETITION BY EMPLOYEE OF A*
22 *FEDERAL NATIONAL SECURITY, SCIENCE, AND TECH-*
23 *NOLOGY LABORATORY, CENTER, OR AGENCY.—Each*
24 *petition under subsection (c)(1)(A) filed by an em-*
25 *ployee of a Federal national security, science, and*

1898

1 *technology laboratory, center, or agency shall contain*
2 *facts and information demonstrating that the alien is*
3 *conforming to the requirements of section 203(b)(2).*

4 “(3) *PERIOD FOR FILING PETITION.*—

5 “(A) *90-DAY PERIOD BEFORE ANNIVER-*
6 *SARY.*—*Except as provided in subparagraph (B),*
7 *the petition under subsection (c)(1)(A) must be*
8 *filed as follows:*

9 “(i) *In the case of an alien investor,*
10 *during the 90-day period before the second*
11 *anniversary of the alien’s lawful admission*
12 *for permanent residence.*

13 “(ii) *In the case of an employee of a*
14 *Federal national security, science, and tech-*
15 *nology laboratory, center, or agency, during*
16 *the 90-day period before the first anniver-*
17 *sary of the alien’s lawful admission for per-*
18 *manent residence.*

19 “(B) *LATE PETITIONS.*—*Such a petition*
20 *may be considered if filed after such date, but*
21 *only if the alien establishes to the satisfaction of*
22 *the Secretary of Homeland Security good cause*
23 *and extenuating circumstances for failure to file*
24 *the petition during the period described in sub-*
25 *paragraph (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 to*
4 *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. Citi-*
13 *zenship and Immigration Services, designated by the*
14 *Secretary of Homeland Security, which is convenient*
15 *to the parties involved. The Secretary, in the discre-*
16 *tion of the Secretary, may waive the deadline for such*
17 *an interview or the requirement for such an interview*
18 *in such cases as may be appropriate.*

19 “(5) *SPECIAL RULE FOR ALIEN INVESTORS IN A*
20 *REGIONAL CENTER.—Each petition under subsection*
21 *(c)(1)(A) filed by an alien investor who invests in ac-*
22 *cordance with section 203(b)(5)(E) shall contain facts*
23 *and information demonstrating that the alien is com-*
24 *plying with the requirements under section 203(b)(5),*
25 *except—*

1900

1 “(A) the alien shall not be subject to the re-
2 quirements under section 203(b)(5)(A)(ii); and

3 “(B) the petition shall contain the most re-
4 cent financial statement filed by the regional
5 center in which the alien has invested in accord-
6 ance with section 203(b)(5)(G).

7 “(e) *TREATMENT OF PERIOD FOR PURPOSES OF NATU-*
8 *RALIZATION.*—For purposes of title III, in the case of an
9 alien who is in the United States as a lawful permanent
10 resident on a conditional basis under this section, the alien
11 shall be considered to have been admitted as an alien law-
12 fully admitted for permanent residence and to be in the
13 United States as an alien lawfully admitted to the United
14 States for permanent residence, if the alien has had the con-
15 ditional basis removed pursuant to this section.

16 “(f) *FRAUD, MISREPRESENTATION, CRIMINAL MISUSE,*
17 *OR THREATS TO THE PUBLIC SAFETY OR NATIONAL SECU-*
18 *RITY.*—If the Secretary of Homeland Security determines,
19 in his or her sole and unreviewable discretion, that the con-
20 ditional permanent resident status granted to an employ-
21 ment-based immigrant under subsection (a), or to an alien
22 researcher described in section 203(b)(2)(A)(ii) is contrary
23 to the national interest of the United States for reasons re-
24 lating to fraud, misrepresentation, criminal misuse, or
25 threats to national security, the Secretary shall—

1901

1 “(1) *notify the immigrant involved of such deter-*
2 *mination; and*

3 “(2) *terminate the permanent resident status of*
4 *the immigrant involved (and the alien spouse and*
5 *alien children of such immigrant) as of the date of*
6 *such determination.*

7 “(g) *DEFINITIONS.—In this section:*

8 “(1) *The term ‘alien investor’ means an alien*
9 *who obtains the status of an alien lawfully admitted*
10 *for permanent residence (whether on a conditional*
11 *basis or otherwise) under section 203(b)(5).*

12 “(2) *The term ‘alien spouse’ and the term ‘alien*
13 *child’ mean an alien who obtains the status of an*
14 *alien lawfully admitted for permanent residence*
15 *(whether on a conditional basis or otherwise) by vir-*
16 *tuue of being the spouse or child, respectively, of an*
17 *alien investor or an employee of a Federal national*
18 *security, science, and technology laboratory, center, or*
19 *agency.*

20 “(3) *The term ‘commercial enterprise’ includes a*
21 *limited partnership.*

22 “(4) *The term ‘employment-based immigrant’*
23 *means an alien described in paragraph (1) or (5).*

24 “(5) *The term ‘employee of a Federal national*
25 *security, science, and technology laboratory, center, or*

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1 *agency’ means an alien who obtains the status of an*
2 *alien lawfully admitted for permanent residence*
3 *(whether on a conditional basis or otherwise) under*
4 *section 203(b)(2)(A)(ii).’.*

5 *(b) CONFORMING AMENDMENT.—Section 216(e) (8*
6 *U.S.C. 1186a(e)) is amended by inserting before the period*
7 *at the end the following: “, if the alien has had the condi-*
8 *tional basis removed pursuant to this section”.*

9 *(c) CLERICAL AMENDMENT.—The table of contents is*
10 *amended by striking the item relating to section 216A and*
11 *inserting the following:*

*“Sec. 216A. Conditional permanent resident status for certain employment-based
immigrants, spouses, and children.”.*

12 **SEC. 4806. EB-5 VISA REFORMS.**

13 *(a) ALIENS NOT SUBJECT TO DIRECT NUMERICAL*
14 *LIMITATION.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as*
15 *amended by sections 2103(c)(2), 2212(d)(2), 2307(b), and*
16 *2402, is further amended by adding at the end the fol-*
17 *lowing:*

18 *“(P) Aliens who are the spouse or a child of an*
19 *alien admitted as an employment-based immigrant*
20 *under section 203(b)(5).’.*

21 *(b) TECHNICAL AMENDMENT.—Section 203(b)(5), as*
22 *amended by this Act, is further amended by striking “Attor-*
23 *ney General” each place it appears and inserting “Sec-*
24 *retary of Homeland Security”.*

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1 (c) *TARGETED EMPLOYMENT AREAS.*—

2 (1) *IN GENERAL.*—Section 203(b)(5)(B) (8
3 *U.S.C. 1153(b)(5)(B)) is amended to read as follows:*

4 “(B) *SET-ASIDE FOR TARGETED EMPLOY-*
5 *MENT AREAS.*—

6 “(i) *IN GENERAL.*—*Not fewer than*
7 *5,000 of the visas made available under this*
8 *paragraph in each fiscal year shall be re-*
9 *served for qualified immigrants who invest*
10 *in a new commercial enterprise described in*
11 *subparagraph (A), which—*

12 “(I) *is investing such capital in a*
13 *targeted employment area; and*

14 “(II) *will create employment in*
15 *such targeted employment area.*

16 “(ii) *DURATION OF HIGH UNEMPLOY-*
17 *MENT AND POVERTY AREA DESIGNATION.*—

18 *A designation of a high unemployment or*
19 *poverty area as a targeted employment area*
20 *shall be valid for 5 years and may be re-*
21 *newed for additional 5-year periods if the*
22 *area continues to meet the definition of a*
23 *high unemployment or poverty area. An in-*
24 *vestor who has made the required amount of*
25 *investment in such a targeted employment*

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1 *area during its period of designation shall*
2 *not be required to increase the amount of*
3 *investment based upon expiration of the*
4 *designation.”.*

5 *(d) ADJUSTMENT OF MINIMUM EB–5 INVESTMENT*
6 *AMOUNT.—Section 203(b)(5)(C)(i) (8 U.S.C.*
7 *1153(b)(5)(C)(i)) is amended—*

8 *(1) by striking “The Attorney General” and in-*
9 *serting “The Secretary of Commerce”;*

10 *(2) by striking “Secretary of State” and insert-*
11 *ing “Secretary of Homeland Security”; and*

12 *(3) by adding at the end the following: “Unless*
13 *adjusted by the Secretary of Commerce, the amount*
14 *specified in this clause shall automatically adjust, on*
15 *January 1, 2016, by the percentage change in the*
16 *Consumer Price Index (CPI–U) during fiscal year*
17 *2015, and on every fifth subsequent January 1 by the*
18 *cumulative percentage change in the CPI–U during*
19 *the previous 5 fiscal years, for any petition filed to*
20 *classify an alien under this paragraph on or after the*
21 *date of each automatic adjustment.”.*

22 *(e) DEFINITIONS.—*

23 *(1) IN GENERAL.—Section 203(b)(5) (8 U.S.C.*
24 *1153(b)(5)), as amended by subsections (b) and (c)*
25 *and section 4804, is further amended—*

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1 (A) by striking subparagraph (D) and in-
2 serting following:

3 “(D) *CALCULATION OF FULL-TIME EMPLOY-*
4 *MENT.—Job creation under this paragraph may*
5 *consist of employment measured in full-time*
6 *equivalents, such as intermittent or seasonal em-*
7 *ployment opportunities and construction jobs. A*
8 *full-time employment position is not a require-*
9 *ment for indirect job creation.”; and*

10 (B) by adding at the end the following:

11 “(K) *DEFINITIONS.—In this paragraph:*

12 “(i) *The term ‘capital’ means all real,*
13 *personal, or mixed assets, whether tangible*
14 *or intangible, owned or controlled by the in-*
15 *vestor, or held in trust for the benefit of the*
16 *investor, to which the investor has unre-*
17 *stricted access, which shall be valued at fair*
18 *market value in United States dollars, in*
19 *accordance with Generally Accepted Ac-*
20 *counting Principles, at the time it is in-*
21 *vested under this paragraph.*

22 “(ii) *The term ‘full-time employment’*
23 *means employment in a position that re-*
24 *quires at least 35 hours of service per week,*

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1 *regardless of how many employees fill the*
2 *position.*

3 “(iii) *The term ‘high unemployment*
4 *and poverty area’ means—*

5 “(I) *an area consisting of a cen-*
6 *sus tract or contiguous census tracts*
7 *that has an unemployment rate that is*
8 *at least 150 percent of the national av-*
9 *erage unemployment rate and includes*
10 *at least 1 census tract with 20 percent*
11 *of its residents living below the poverty*
12 *level as determined by the Bureau of*
13 *the Census; or*

14 “(II) *an area that is within the*
15 *boundaries established for purposes of*
16 *a Federal or State economic develop-*
17 *ment incentive program, including*
18 *areas defined as Enterprise Zones, Re-*
19 *newal Communities, Promise Zones,*
20 *and Empowerment Zones.*

21 “(iv) *The term ‘rural area’ means—*

22 “(I) *any area other than an area*
23 *within a metropolitan statistical area*
24 *or within the outer boundary of any*
25 *city or town having a population of*

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1 20,000 or more (based on the most re-
2 cent decennial census of the United
3 States); or

4 “(II) any city or town having a
5 population of fewer than 20,000 (based
6 on the most recent decennial census of
7 the United States) that is located with-
8 in a State having a population of
9 fewer than 1,500,000 (based on the
10 most recent decennial census of the
11 United States).

12 “(v) The term ‘targeted employment
13 area’ means a rural area or a high unem-
14 ployment and poverty area.”.

15 (2) *EFFECTIVE DATE.*—The amendment made by
16 paragraph (1) shall apply to any application for a
17 visa under section 203(b)(5) of the Immigration and
18 Nationality Act that is filed on or after the date that
19 is 1 year after the date of the enactment of this Act.

20 (f) *AGE DETERMINATION FOR CHILDREN OF ALIEN IN-*
21 *VESTORS.*—Section 203(h) (8 U.S.C. 1153(h)) is amended
22 by adding at the end the following:

23 “(5) *AGE DETERMINATION FOR CHILDREN OF*
24 *ALIEN INVESTORS.*—An alien admitted under sub-
25 section (d) as a lawful permanent resident on a con-

1 *ditional basis as the child of an alien lawfully admit-*
2 *ted for permanent residence under subsection (b)(5),*
3 *whose lawful permanent resident status on a condi-*
4 *tional basis is terminated under section 216A, shall*
5 *continue to be considered a child of the principal*
6 *alien for the purpose of a subsequent immigrant peti-*
7 *tion by such alien under subsection (b)(5) if the alien*
8 *remains unmarried and the subsequent petition is*
9 *filed by the principal alien not later than 1 year after*
10 *the termination of conditional lawful permanent resi-*
11 *dent status. No alien shall be considered a child under*
12 *this paragraph with respect to more than 1 petition*
13 *filed after the alien's 21st birthday.”.*

14 *(g) ENHANCED PAY SCALE FOR CERTAIN FEDERAL*
15 *EMPLOYEES ADMINISTERING THE EB-5 PROGRAM.—The*
16 *Secretary may establish, fix the compensation of, and ap-*
17 *point individuals to, designated critical administrative,*
18 *technical, and professional positions needed to administer*
19 *sections 203(b)(5) and 216A of the Immigration and Na-*
20 *tionality Act (8 U.S.C. 1153(b)(5) and 1186b).*

21 *(h) DELEGATION OF CERTAIN EB-5 AUTHORITY.—*

22 *(1) IN GENERAL.—The Secretary of Homeland*
23 *Security may delegate to the Secretary of Commerce*
24 *authority and responsibility for determinations under*
25 *sections 203(b)(5) and 216A (with respect to alien en-*

1 *trepreneurs) of the Immigration and Nationality Act*
2 *(8 U.S.C. 1153(b)(5) and 1186a), including deter-*
3 *mining whether an alien has met employment cre-*
4 *ation requirements.*

5 *(2) REGULATIONS.—The Secretary of Homeland*
6 *Security and the Secretary of Commerce may each*
7 *adopt such rules and regulations as are necessary to*
8 *carry out the delegation authorized under paragraph*
9 *(1), including regulations governing the eligibility*
10 *criteria for obtaining benefits pursuant to the amend-*
11 *ments made by this section.*

12 *(3) USE OF FEES.—Adjudication fees described*
13 *in section 286(m) of the Immigration and Nation-*
14 *ality Act (8 U.S.C. 1356(m)) shall remain available*
15 *until expended to reimburse the Secretary of Com-*
16 *merce for the costs of any determinations made by the*
17 *Secretary of Commerce under paragraph (1).*

18 *(i) CONCURRENT FILING OF EB-5 PETITIONS AND AP-*
19 *PLICATIONS FOR ADJUSTMENT OF STATUS.—Section 245 (8*
20 *U.S.C. 1255) is amended—*

21 *(1) in subsection (k), in the matter preceding*
22 *paragraph (1), by striking “or (3)” and inserting*
23 *“(3), (5), or (7)”; and*

24 *(2) by adding at the end the following:*

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1 “(n) *At the time a petition is filed for classification*
2 *under section 203(b)(5), if the approval of such petition*
3 *would make a visa immediately available to the alien bene-*
4 *ficiary, the alien beneficiary’s application for adjustment*
5 *of status under this section shall be considered to be prop-*
6 *erly filed whether the application is submitted concurrently*
7 *with, or subsequent to, the visa petition.”.*

8 **SEC. 4807. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) *FUNDING.—There are authorized to be appro-*
10 *priated from the Trust Fund established under section 6(a)*
11 *such sums as may be necessary to carry out sections 1110,*
12 *2101, 2104, 2212, 2213, 2221, 2232, 3301, 3501, 3502,*
13 *3503, 3504, 3505, 3506, 3605, 3610, 4221, and 4401 of this*
14 *Act.*

15 (b) *AVAILABILITY OF FUNDS.—Amounts appropriated*
16 *pursuant to this section shall remain available until ex-*
17 *pendent unless otherwise specified in this Act.*

18 ***Subtitle I—Student and Exchange***
19 ***Visitor Programs***

20 **SEC. 4901. SHORT TITLE.**

21 *This subtitle may be cited as the “Student Visa Integ-*
22 *riety Act”.*

23 **SEC. 4902. SEVIS AND SEVP DEFINED.**

24 *In this subtitle:*

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1 (1) *SEVIS*.—The term “SEVIS” means the Stu-
2 *dent and Exchange Visitor Information System of the*
3 *Department of Homeland Security.*

4 (2) *SEVP*.—The term “SEVP” means the Stu-
5 *dent and Exchange Visitor Program of the Depart-*
6 *ment of Homeland Security.*

7 **SEC. 4903. INCREASED CRIMINAL PENALTIES.**

8 Section 1546(a) of title 18, United States Code, is
9 amended by striking “10 years” and inserting “15 years
10 (if the offense was committed by an owner, official, em-
11 ployee, or agent of an educational institution with respect
12 to such institution’s participation in the Student and Ex-
13 change Visitor Program), 10 years”.

14 **SEC. 4904. ACCREDITATION REQUIREMENT.**

15 (a) *COLLEGES, UNIVERSITIES, AND LANGUAGE TRAIN-*
16 *ING PROGRAMS*.—Section 101(a) (8 U.S.C. 1101(a)) is
17 amended—

18 (1) in paragraph (15)(F)(i)—

19 (A) by striking “section 214(l) at an estab-
20 lished college, university, seminary, conservatory,
21 academic high school, elementary school, or other
22 academic institution or in an accredited lan-
23 guage training program in the United States”
24 and inserting “section 214(m) at an accredited
25 college, university, or language training pro-

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1 *gram, or at an established seminary, conserv-*
2 *atory, academic high school, elementary school,*
3 *or other academic institution in the United*
4 *States”; and*

5 *(B) by striking “Attorney General” each*
6 *place such term appears and inserting “Sec-*
7 *retary of Homeland Security”; and*

8 *(2) by amending paragraph (52) to read as fol-*
9 *lows:*

10 *“(52) Except as provided in section 214(m)(4), the*
11 *term ‘accredited college, university, or language training*
12 *program’ means a college, university, or language training*
13 *program that is accredited by an accrediting agency recog-*
14 *nized by the Secretary of Education.”.*

15 **SEC. 4905. OTHER ACADEMIC INSTITUTIONS.**

16 *Section 214(m) (8 U.S.C. 1184(m)) is amended by*
17 *adding at the end the following:*

18 *“(3) The Secretary of Homeland Security shall require*
19 *accreditation of an academic institution (except for sem-*
20 *inaries or other religious institutions) for purposes of sec-*
21 *tion 101(a)(15)(F) if—*

22 *“(A) that institution is not already required to*
23 *be accredited under section 101(a)(15)(F)(i); and*

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1 “(B) an appropriate accrediting agency recog-
2 nized by the Secretary of Education is able to provide
3 such accreditation.

4 “(4) The Secretary of Homeland Security, in the Sec-
5 retary’s discretion, may waive the accreditation require-
6 ment in section 101(a)(15)(F)(i) with respect to an accred-
7 ited college, university, or language training program if the
8 academic institution—

9 “(A) is otherwise in compliance with the require-
10 ments of such section; and

11 “(B) is, on the date of the enactment of the Ille-
12 gal Immigration Reform and Immigrant Responsi-
13 bility Act of 1996, a candidate for accreditation or,
14 after such date, has been a candidate for accreditation
15 for at least 1 year and continues to progress toward
16 accreditation by an accreditation agency recognized
17 by the Secretary of Education.”.

18 **SEC. 4906. PENALTIES FOR FAILURE TO COMPLY WITH**
19 **SEVIS REPORTING REQUIREMENTS.**

20 Section 641 of the Illegal Immigration Reform and
21 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is
22 amended—

23 (1) in subsection (c)(1)—

24 (A) by striking “institution,,” each place it
25 appears and inserting “institution,”; and

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1 (B) in subparagraph (D), by striking “and”
2 at the end;

3 (2) in subsection (d)(2), by striking “fails to pro-
4 vide the specified information” and all that follows
5 and inserting “does not comply with the reporting re-
6 quirements set forth in this section, the Secretary of
7 Homeland Security may—

8 “(A) impose a monetary fine on such insti-
9 tution in an amount to be determined by the
10 Secretary; and

11 “(B) suspend the authority of such institu-
12 tion to issue a Form I-20 to any alien.”.

13 **SEC. 4907. VISA FRAUD.**

14 (a) **IMMEDIATE WITHDRAWAL OF SEVP CERTIFI-**
15 **CATION.**—Section 641(d) of the *Illegal Immigration Reform*
16 *and Immigrant Responsibility Act of 1996* (8 U.S.C.
17 *1372(d)*) is amended—

18 (1) in paragraph (1)(A), by striking “institu-
19 tion,,” and inserting “institution,;” and

20 (2) by adding at the end the following:

21 “(3) **EFFECT OF REASONABLE SUSPICION OF**
22 **FRAUD.**—If the Secretary of Homeland Security has
23 reasonable suspicion that an owner of, or a des-
24 ignated school official at, an approved institution of
25 higher education, an other approved educational in-

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1 *stitution, or a designated exchange visitor program*
2 *has committed fraud or attempted to commit fraud*
3 *relating to any aspect of the Student and Exchange*
4 *Visitor Program, or if such owner or designated*
5 *school official is indicted for such fraud, the Secretary*
6 *may immediately—*

7 *“(A) suspend such certification without*
8 *prior notification; and*

9 *“(B) suspend such official’s or such school’s*
10 *access to the Student and Exchange Visitor In-*
11 *formation System (SEVIS).”.*

12 *(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Sec-*
13 *tion 641(d) of the Illegal Immigration Reform and Immi-*
14 *grant Responsibility Act of 1996, as amended by subsection*
15 *(a), is further amended by adding at the end the following:*

16 *“(5) PERMANENT DISQUALIFICATION FOR*
17 *FRAUD.—A designated school official at, or an owner*
18 *of, an approved institution of higher education, an*
19 *other approved educational institution, or a des-*
20 *ignated exchange visitor program who is convicted for*
21 *fraud relating to any aspect of the Student and Ex-*
22 *change Visitor Program shall be permanently dis-*
23 *qualified from filing future petitions and from having*
24 *an ownership interest or a management role (includ-*
25 *ing serving as a principal, owner, officer, board mem-*

1 *ber, general partner, designated school official, or any*
2 *other position of substantive authority for the oper-*
3 *ations or management of the institution) in any*
4 *United States educational institution that enrolls*
5 *nonimmigrant alien students described in subpara-*
6 *graph (F) or (M) of section 101(a)(15) of the Immi-*
7 *gration and Nationality Act (8 U.S.C. 1101(a)(15)).”.*

8 **SEC. 4908. BACKGROUND CHECKS.**

9 *(a) IN GENERAL.—Section 641(d) of the Illegal Immi-*
10 *gration Reform and Immigrant Responsibility Act of 1996*
11 *(8 U.S.C. 1372(d)), as amended by section 4907 of this Act,*
12 *is further amended by adding at the end the following:*

13 *“(6) BACKGROUND CHECK REQUIREMENT.—*

14 *“(A) IN GENERAL.—An individual may not*
15 *serve as a designated school official or be granted*
16 *access to SEVIS unless the individual is a na-*
17 *tional of the United States or an alien lawfully*
18 *admitted for permanent residence and during the*
19 *most recent 3-year period—*

20 *“(i) the Secretary of Homeland Secu-*
21 *rity has—*

22 *“(I) conducted a thorough back-*
23 *ground check on the individual, includ-*
24 *ing a review of the individual’s crimi-*
25 *nal and sex offender history and the*

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1 *verification of the individual's immi-*
2 *gration status; and*

3 *“(II) determined that the indi-*
4 *vidual—*

5 *“(aa) has not been convicted*
6 *of any violation of United States*
7 *immigration law; and*

8 *“(bb) is not a risk to the na-*
9 *tional security of the United*
10 *States; and*

11 *“(ii) the individual has successfully*
12 *completed an on-line training course on*
13 *SEVP and SEVIS, which has been devel-*
14 *oped by the Secretary.*

15 *“(B) INTERIM DESIGNATED SCHOOL OFFI-*
16 *CIAL.—*

17 *“(i) IN GENERAL.—An individual may*
18 *serve as an interim designated school offi-*
19 *cial during the period that the Secretary is*
20 *conducting the background check required*
21 *by subparagraph (A)(i)(I).*

22 *“(ii) REVIEWS BY THE SECRETARY.—*
23 *If an individual serving as an interim des-*
24 *ignated school official under clause (i) does*
25 *not successfully complete the background*

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1 *check required by subparagraph (A)(i)(I),*
2 *the Secretary shall review each Form I-20*
3 *issued by such interim designated school of-*
4 *icial.*

5 “(7) *FEE.*—*The Secretary is authorized to collect*
6 *a fee from an approved school for each background*
7 *check conducted under paragraph (6)(A)(i). The*
8 *amount of such fee shall be equal to the average*
9 *amount expended by the Secretary to conduct such*
10 *background checks.”.*

11 “(b) *EFFECTIVE DATE.*—*The amendment made by sub-*
12 *section (a) shall take effect on the date that is 1 year after*
13 *the date of the enactment of this Act.*

14 **SEC. 4909. REVOCATION OF AUTHORITY TO ISSUE FORM I-**
15 **20 OF FLIGHT SCHOOLS NOT CERTIFIED BY**
16 **THE FEDERAL AVIATION ADMINISTRATION.**

17 *Immediately upon the enactment of this Act, the Sec-*
18 *retary shall prohibit any flight school in the United States*
19 *from accessing SEVIS or issuing a Form I-20 to an alien*
20 *seeking a student visa pursuant to subparagraph (F)(i) or*
21 *(M)(i) of section 101(a)(15) of the Immigration and Na-*
22 *tionality Act (8 U.S.C. 1101(a)(15)) if the flight school has*
23 *not been certified to the satisfaction of the Secretary and*
24 *by the Federal Aviation Administration pursuant to part*

1 141 or part 142 of title 14, Code of Federal Regulations
2 (or similar successor regulations).

3 **SEC. 4910. REVOCATION OF ACCREDITATION.**

4 *At the time an accrediting agency or association is re-*
5 *quired to notify the Secretary of Education and the appro-*
6 *priate State licensing or authorizing agency of the final de-*
7 *nial, withdrawal, suspension, or termination of accredita-*
8 *tion of an institution pursuant to section 496 of the Higher*
9 *Education Act of 1965 (20 U.S.C. 1099b), such accrediting*
10 *agency or association shall notify the Secretary of Home-*
11 *land Security of such determination and the Secretary of*
12 *Homeland Security shall immediately withdraw the school*
13 *from the SEVP and prohibit the school from accessing*
14 *SEVIS.*

15 **SEC. 4911. REPORT ON RISK ASSESSMENT.**

16 *Not later than 180 days after the date of the enactment*
17 *of this Act, the Secretary shall submit to the Committee on*
18 *the Judiciary of the Senate and the Committee on the Judi-*
19 *ciary of the House of Representatives a report that contains*
20 *the risk assessment strategy that will be employed by the*
21 *Secretary to identify, investigate, and take appropriate ac-*
22 *tion against schools and school officials that are facilitating*
23 *the issuance of Form I-20 and the maintenance of student*
24 *visa status in violation of the immigration laws of the*
25 *United States.*

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1 **SEC. 4912. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

2 *Not later than 180 days after the date of the enactment*
3 *of this Act, the Secretary shall submit to the Committee on*
4 *the Judiciary of the Senate and the Committee on the Judi-*
5 *ciary of the House of Representatives a report that de-*
6 *scribes—*

7 *(1) the process in place to identify and assess*
8 *risks in the SEVP;*

9 *(2) a risk assessment process to allocate SEVP's*
10 *resources based on risk;*

11 *(3) the procedures in place for consistently en-*
12 *sureing a school's eligibility, including consistently*
13 *verifying in lieu of letters;*

14 *(4) how SEVP identified and addressed missing*
15 *school case files;*

16 *(5) a plan to develop and implement a process*
17 *to monitor State licensing and accreditation status of*
18 *all SEVP-certified schools;*

19 *(6) whether all flight schools that have not been*
20 *certified to the satisfaction of the Secretary and by*
21 *the Federal Aviation Administration have been re-*
22 *moved from the program and have been restricted*
23 *from accessing SEVIS;*

24 *(7) the standard operating procedures that gov-*
25 *ern coordination among SEVP, Counterterrorism and*

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1 *Criminal Exploitation Unit, and U.S. Immigration*
2 *and Customs Enforcement field offices; and*

3 *(8) the established criteria for referring cases of*
4 *a potentially criminal nature from SEVP to the*
5 *counterterrorism and intelligence community.*

6 **SEC. 4913. IMPLEMENTATION OF SEVIS II.**

7 *Not later than 2 years after the date of the enactment*
8 *of this Act, the Secretary shall complete the deployment of*
9 *both phases of the second generation Student and Exchange*
10 *Visitor Information System (commonly known as “SEVIS*
11 *II”).*