AMENDMENT NO._____ Calendar No._____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1639

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

At the end of the bill, add the following:

TITLE __—NONIMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS

Subtitle A—Z Nonimmigrants

SEC. __00. REPEAL OF TITLE VI.

Title VI of this Act is repealed and the amendments made by title VI of this Act are null and void.

SEC. __01. Z NONIMMIGRANTS.

(a) IN GENERAL.—Notwithstanding section 244(h) of the Immigration and Nationality Act (8 U.S.C. 1254a(h)), the Secretary may permit an alien, or a dependent of such alien, described in this section, to remain lawfully in the United States under the conditions set forth in this title.

(b) ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by inserting at the end the following:

"(Z) subject to title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, an alien who—

"(i) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, is employed, and seeks to continue performing labor, services, or education;

"(ii) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and such alien—

"(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i); or

"(II) was, within 2 years of the date on which the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who is described in clause (i) or is eligible for such classification, if—

"(aa) the termination of the relationship with such spouse was connected to domestic violence; and

"(bb) such spouse has been battered or subjected to extreme cruelty by such alien; or

"(iii) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph, is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and was born to or legally adopted by at least

one parent who is at the time of application described in clause (i) or (ii).''.

(c) PRESENCE IN THE UNITED STATES.—

(1) IN GENERAL.—The alien shall establish that the alien was not present in lawful status in the United States on January 1, 2007, under any classification described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) or any other immigration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

(2) CONTINUOUS PRESENCE.—For purposes of this section, an absence from the United States without authorization for a continuous period of 90 days, or more than 180 days in the aggregate, shall constitute a break in continuous physical presence.

(d) OTHER CRITERIA.—

(1) GROUNDS OF INELIGIBILITY.—

(A) IN GENERAL.—An alien is ineligible for Z nonimmigrant status if the Secretary determines that the alien—

(i) is inadmissible to the United States under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), provided that to be deemed inad-

missible, nothing in this paragraph shall require the Secretary to have commenced removal proceedings against an alien;

(ii) subject to subparagraph (B), is subject to the execution of an outstanding administratively final order of removal, deportation, or exclusion;

(iii) subject to subparagraph (B), is described in or is subject to section 241(a)(5) of such Act (8 U.S.C. 1231(a)(5));

(iv) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(v) is an alien—

(I) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense (as described in section 101(h) of such Act (8 U.S.C. 1101(h))) outside the United States before arriving in the United States; or

(II) for whom there are reasonable grounds for regarding the alien as a danger to the security of the United States;

(vi) has been convicted of—

(I) a felony;

(II) an aggravated felony (as defined in section 101(a)(43) of such Act);

(III) 3 or more misdemeanors under Federal or State law; or

(IV) a serious criminal offense (as described in section 101(h) of such Act);

(vii) has entered or attempted to enter the United States illegally on or after January 1, 2007; or

(viii) is an applicant for Z–2 nonimmigrant status, or is under 18 years of age and is an applicant for Z–3 nonimmigrant status, and the principal Z–1 nonimmigrant or Z–1 nonimmigrant status applicant is ineligible.

(B) WAIVER.—The Secretary may, in the Secretary's discretion, waive ineligibility under

clause (ii) or (iii) of subparagraph (A) if the alien has not been physically removed from the United States and if the alien demonstrates that the alien's departure from the United States would result in extreme hardship to the alien or the alien's spouse, parent, or child.

(C) CONSTRUCTION.—Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien.

(2) GROUNDS OF INADMISSIBILITY.—

(A) IN GENERAL.—In determining an alien's admissibility under paragraph (1)(A)(i)—

(i) paragraphs (6)(A)(i) (with respect to an alien present in the United States without being admitted or paroled before the date of application, but not with respect to an alien who has arrived in the United States on or after January 1, 2007), (6)(B), (6)(C)(i), (6)(C)(ii), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I), and (10)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply, but only with re-

spect to conduct occurring or arising before the date of application;

(ii) the Secretary may not waive—

(I) subparagraph (A), (B), (C), (D)(ii), (E), (F), (G), (H), or (I) of section 212(a)(2) of such Act (relating to criminals);

(II) section 212(a)(3) of such Act (relating to security and related grounds);

(III) with respect to an application for Z nonimmigrant status, section 212(a)(6)(C)(i) of such Act;

(IV) paragraph (6)(A)(i) of section 212(a) of such Act (with respect to any entries occurring on or after January 1, 2007);

(V) section 212(a)(9)(C)(i)(II) of such Act; or

(VI) subparagraph (A), (C), or (D) of section 212(a)(10) of such Act (relating to polygamists, child abductors, and unlawful voters); and

(iii) the Secretary may, in the Secretary's discretion, waive the application of

any provision of section 212(a) of such Act not listed in clause (ii) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this paragraph to waive the provisions of section 212(a) of such Act.

(e) ELIGIBILITY REQUIREMENTS.—To be eligible for Z nonimmigrant status an alien shall meet the following and any other applicable requirements set forth in this section:

(1) ELIGIBILITY.—The alien does not fall within a class of aliens ineligible for Z nonimmigrant status listed under subsection (d)(1).

(2) ADMISSIBILITY.—The alien is not inadmissible as a nonimmigrant to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided in subsection (d)(2) of this section, regardless of whether the alien has previously been admitted to the United States.

(3) PRESENCE.—To be eligible for Z–1 nonimmigrant status, Z–2 nonimmigrant status, or Z–3 nonimmigrant status, the alien shall—

(A) have been physically present in the United States before January 1, 2007, and have maintained continuous physical presence in the United States since that date;

(B) be physically present in the United States on the date of application for Z nonimmigrant status; and

(C) be, on January 1, 2007, and on the date of application for Z nonimmigrant status, not present in lawful status in the United States under any classification described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) or any other immigration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

(4) EMPLOYMENT.—An alien seeking Z–1 nonimmigrant status must be employed in the United States on the date of filing of the application for Z–1 nonimmigrant status.

(5) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) IN GENERAL.—An alien making an initial application for Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but not more than $1,500 for a single Z nonimmigrant.

(ii) FEE FOR EXTENSION APPLICATION.—An alien applying for extension of the alien's Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to cover administrative and other expenses associated with processing the extension application, but not more than $1,500 for a single Z nonimmigrant.

(B) PENALTIES.—

(i) IN GENERAL.—An alien making an initial application for Z–1 nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) DERIVATIVE STATUS.—An alien making an initial application for Z–1 nonimmigrant status shall be required to pay

a $500 penalty for each alien seeking Z–2 nonimmigrant status or Z–3 nonimmigrant status derivative to such applicant for Z–1 nonimmigrant status.

(iii) CHANGE OF Z NONIMMIGRANT CLASSIFICATION.—An alien who is a Z–2 nonimmigrant or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 nonimmigrants.

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, an alien making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $500.

(D) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by subsections (m) and (n) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(E) DEPOSIT, ALLOCATION, AND SPENDING OF PENALTIES.—

(i) DEPOSIT OF PENALTIES.—The penalty under subparagraph (B) shall be deposited and remain available as provided by subsection (w) of such section 286, as added by section 402.

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The funds under subparagraph (C) shall be deposited and remain available as provided by subsection (x) of such section 286.

(6) HOME APPLICATION.—

(A) IN GENERAL.—An alien granted probationary status under subsection (h) shall not be eligible for Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status until the alien has completed the following home application requirements:

(i) SUBMISSION OF SUPPLEMENTAL CERTIFICATION.—An alien awarded probationary status who seeks Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status shall, within 2 years of being awarded a secure ID card under subsection (j), per-

fect the alien's application for such nonimmigrant status at a United States consular office by submitting a supplemental certification in person in accordance with the requirements of this subparagraph.

(ii) CONTENTS OF SUPPLEMENTAL CERTIFICATION.—An alien in probationary status who is seeking a Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status shall certify, in addition to any other certifications specified by the Secretary, that the alien has during the period of the alien's probationary status remained continuously employed in accordance with the requirements of subsection (m) and has paid all tax liabilities owed by the alien pursuant to the procedures set forth in section 602(h). The probationary status of an alien making a false certification under this subparagraph shall be terminated pursuant to subsection (o)(1)(G).

(iii) PRESENTATION OF SECURE ID CARD.—The alien shall present the alien's secure ID card at the time the alien submits the supplemental certification under

clause (i) at the United States consular office. The alien's secure ID card shall be marked or embossed with a designation as determined by the Secretary of State and the Secretary of Homeland Security to distinguish the card as satisfying all requirements for Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status.

(iv) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, an alien in probationary status who is seeking Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status shall file the supplemental certification described in clause (ii) at a consular office in the alien's country of origin. A consular office in a country that is not the alien's country of origin as a matter of discretion may, or at the direction of the Secretary of State shall, accept a supplemental certification from such an alien.

(B) EFFECT OF FAILURE TO COMPLY.—The probationary status of an alien seeking a Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status who fails to complete the re-

quirements of this paragraph shall be terminated in accordance with subsection (o)(1)(G).

(C) EXEMPTION.—Subparagraph (A) shall not apply to an alien who, on the date on which the alien is granted a secure ID card under subsection (j), is exempted from the employment requirements under subsection (m)(1)(B)(iii).

(D) FAILURE TO ESTABLISH LAWFUL ADMISSION TO THE UNITED STATES.—Unless exempted under subparagraph (C), an alien in probationary status who is seeking Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant status who fails to depart and reenter the United States in accordance with subparagraph (A) may not be issued a Z–1, Z–2, Z–A, or adult Z–A dependent nonimmigrant visa under this section.

(E) DEPENDENTS.—An alien in probationary status who is seeking Z–3 or minor Z–A dependent nonimmigrant status shall be awarded such status upon satisfaction of the requirements set forth in subparagraph (A) by the principal Z–1 or Z–A nonimmigrant. An alien in probationary status who is seeking Z–

3 or minor Z–A dependent nonimmigrant status and whose principal Z–1 or Z–A nonimmigrant fails to satisfy the requirements of subparagraph (A) may not be issued a Z–3 or minor Z–A dependent nonimmigrant visa under this section unless the principal Z–1 alien is exempted under subparagraph (C).

(7) INTERVIEW.—An applicant for Z nonimmigrant status shall appear to be interviewed.

(8) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

(f) APPLICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall prescribe by notice in the Federal Register, in accordance with the procedures described in section 610, the procedures for an alien in the United States to apply for Z nonimmigrant status and the evidence required to demonstrate eligibility for such status.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary, or such other entities as are authorized by the Secretary to accept applications under the

procedures established under this subsection, shall accept applications from aliens for Z nonimmigrant status for a period of 1 year starting the first day of the first month beginning not more than 180 days after the date of the enactment of this Act. If, during the 1-year initial period for the receipt of applications for Z nonimmigrant status, the Secretary determines that additional time is required to register applicants for Z nonimmigrant status, the Secretary may, in the Secretary's discretion, extend the period for accepting applications by not more than 1 year.

(3) BIOMETRIC DATA.—Each alien applying for Z nonimmigrant status shall submit biometric data in accordance with procedures established by the Secretary.

(4) HOME APPLICATION.—No alien may be awarded Z nonimmigrant status until the alien has completed the home application requirements set forth in subsection (e)(6).

(g) CONTENT OF APPLICATION FILED BY ALIEN.—

(1) APPLICATION FORM.—The Secretary shall create an application form that an alien shall be required to complete as a condition of obtaining probationary status.

(2) APPLICATION INFORMATION.—

(A) IN GENERAL.—The application form shall request such information as the Secretary deems necessary and appropriate, including—

(i) information concerning the alien's physical and mental health;

(ii) complete criminal history, including all arrests and dispositions;

(iii) gang membership or renunciation of gang affiliation;

(iv) immigration history;

(v) employment history; and

(vi) claims to United States citizenship.

(B) STATUS.—An alien applying for Z nonimmigrant status shall be required to specify on the application whether the alien ultimately seeks to be awarded Z–1, Z–2, or Z–3 nonimmigrant status.

(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

(A) SUBMISSION OF FINGERPRINTS.—The Secretary may not award Z nonimmigrant status unless the alien submits fingerprints and other biometric data in accordance with procedures established by the Secretary.

(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints and other biometric data provided by the alien to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under this section.

(h) TREATMENT OF APPLICANTS.—

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status, upon submission of any evidence required under subsections (f) and (g) and after the Secretary has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible—

(A) shall be granted probationary status in the form of employment authorization pending final adjudication of the alien's application;

(B) may, in the Secretary's discretion, receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY STATUS.—No alien may be granted probationary status until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner.

(3) CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under paragraph (4).

(4) PROBATIONARY CARD.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in that paragraph. The

Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary status and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed. All documentary evidence of probationary benefits shall expire not later than 6 months after the date on which the Secretary begins to issue secure ID cards under subsection (j).

(5) BEFORE APPLICATION PERIOD.—If an alien is apprehended between the date of the enactment of this Act and the date on which the period for initial registration closes under subsection (f)(2), and the alien is able to establish prima facie eligibility for Z nonimmigrant status, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section after such regulations are promulgated.

(6) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, if the Secretary determines that an alien who is in removal proceedings is prima facie eligible for Z nonimmigrant status, then the Secretary shall affirmatively communicate such determination to the immigration judge. The immigration judge

shall then terminate or administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of a secure ID card, as described in subsection (j), to an applicant for Z nonimmigrant status who satisfies the requirements of this section.

(2) EVIDENCE OF CONTINUOUS PHYSICAL PRESENCE, EMPLOYMENT, OR EDUCATION.—

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under sub-

section (x) of section 286 of the Immigration and Nationality Act, as added by section 402, shall within 90 days of the enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of the Internal Revenue Code of 1986, provide verification to the Secretary of documentation offered by an alien as evidence of—

(I) presence or employment required under this section; or

(II) a requirement for any other benefit under the immigration laws.

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (A) may establish satisfaction of each required period of presence, employment, or study by submitting to the Sec-

retary at least 2 other types of reliable documents that provide evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

(iv) records of a labor union or day labor center; and

(v) remittance records.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

(i) designate additional documents to evidence the required period of presence, employment, or study; and

(ii) set such terms and conditions on the use of affidavits as is necessary to verify and confirm the identity of any affiant or otherwise prevent fraudulent submissions.

(3) PAYMENT OF INCOME TAXES.—

(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of any applicable Federal tax liability by establishing that—

(i) no such tax liability exists;

(ii) all outstanding liabilities have been paid; or

(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(B) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of subparagraph (A), the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(C) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(D) IN GENERAL.—The alien may satisfy such requirement by establishing that—

(i) no such tax liability exists;

(ii) all outstanding liabilities have been met; or

(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

(4) BURDEN OF PROOF.—An alien who is applying for a Z nonimmigrant visa under this section shall prove, by a preponderance of the evidence, that the alien has satisfied the requirements of this section.

(5) DENIAL OF APPLICATION.—

(A) IN GENERAL.—An alien who fails to satisfy the eligibility requirements for a Z nonimmigrant visa shall have the alien's application denied and may not file additional applications.

(B) FAILURE TO SUBMIT INFORMATION.—An alien who fails to submit requested initial evidence, including requested biometric data, and requested additional evidence by the date required by the Secretary shall, except if the alien demonstrates to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful, have the alien's ap-

plication considered abandoned. Such application shall be denied and the alien may not file additional applications.

(j) SECURE ID CARD EVIDENCING STATUS.—

(1) IN GENERAL.—Documentary evidence of status shall be issued to each Z nonimmigrant.

(2) FEATURES OF SECURE ID CARD.—Documentary evidence of Z nonimmigrant status—

(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that may be authenticated;

(B) shall be designed in consultation with U.S. Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a valid travel and entry document for the purpose of applying for admission to the United States where the alien is applying for admission at a port of entry;

(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A of the Immigration and Nationality

Act (8 U.S.C. 1324a), as amended by title III; and

(E) shall be issued to the Z nonimmigrant by the Secretary promptly after final adjudication of such alien's application for Z nonimmigrant status, except that an alien may not be granted permanent Z nonimmigrant status until all appropriate background checks on the alien are completed to the satisfaction of the Secretary.

(k) PERIOD OF AUTHORIZED ADMISSION.—

(1) INITIAL PERIOD.—The initial period of authorized admission as a Z nonimmigrant shall be 4 years beginning on the date on which the alien is first issued a secure ID card under subsection (j).

(2) EXTENSIONS.—

(A) IN GENERAL.—Z nonimmigrants may seek an indefinite number of 4-year extensions of the initial period of authorized admission.

(B) REQUIREMENTS.—In order to be eligible for an extension of the initial or any subsequent period of authorized admission under this paragraph, an alien must satisfy the following requirements:

(i) ELIGIBILITY.—The alien must demonstrate continuing eligibility for Z nonimmigrant status.

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in paragraphs (1) and (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass

the naturalization test described in such paragraphs (1) and (2) of such section 312(a). The alien may make up to 3 attempts to demonstrate such understanding and knowledge, but shall satisfy this requirement prior to the expiration of the second extension of Z nonimmigrant status.

(III) EXCEPTION.—The requirements of subclauses (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to meet the requirements of such subclauses;

(bb) is over 50 years of age and has been living in the United States for periods totaling at least 20 years; or

(cc) is over 55 years of age and has been living in the United

States for periods totaling at least 15 years.

(iii) EMPLOYMENT.—With respect to an extension of Z–1 nonimmigrant status or Z–3 nonimmigrant status, an alien shall demonstrate satisfaction of the employment or study requirements provided in subsection (m) during the alien's most recent period of authorized admission as of the date of application.

(iv) FEES.—The alien must pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but not more than $1,500 for a single Z nonimmigrant.

(C) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien applying for extension of Z nonimmigrant status may be required to submit to a renewed security and law enforcement background check that shall be completed to the satisfaction of the Secretary before such extension may be granted.

(D) TIMELY FILING AND MAINTENANCE OF STATUS.—

(i) IN GENERAL.—An extension of a period of authorized admission under this paragraph, or a change of status to another Z nonimmigrant status under subsection (l), may not be approved for an applicant who failed to maintain Z nonimmigrant status or if such status expired or terminated before the application was filed.

(ii) EXCEPTION.—Failure to file before the period of previously authorized admission expired or terminated may be excused in the discretion of the Secretary and without separate application, with any extension granted from the date the previously authorized admission expired, if it is demonstrated at the time of filing that—

(I) the delay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the delay commensurate with the circumstances; and

(II) the alien has not otherwise violated the alien's Z nonimmigrant status.

(iii) EXEMPTIONS FROM PENALTY AND EMPLOYMENT REQUIREMENTS.—An alien demonstrating extraordinary circumstances under clause (ii), including the spouse of a Z–1 nonimmigrant who has been battered or has been the subject of extreme cruelty perpetrated by the Z–1 nonimmigrant, and who is changing to Z–1 nonimmigrant status, may be exempted by the Secretary, in the Secretary's discretion, from the requirements under subsection (m) for a period of up to 180 days; and

(E) BARS TO EXTENSION.—Except as provided in subparagraph (D), a Z nonimmigrant shall not be eligible to extend such nonimmigrant status if—

(i) the alien has violated any term or condition of the alien's Z nonimmigrant status, including failing to comply with the change of address reporting requirements

under section 265 of the Immigration and Nationality Act (8 U.S.C. 1305);

(ii) the period of authorized admission of the Z nonimmigrant has been terminated for any reason; or

(iii) with respect to a Z–2 nonimmigrant or a Z–3 nonimmigrant, the principal alien's Z–1 nonimmigrant status has been terminated.

(l) CHANGE OF STATUS.—

(1) CHANGE FROM Z NONIMMIGRANT STATUS.—

(A) IN GENERAL.—A Z nonimmigrant may not change status under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) to another nonimmigrant status, except another Z nonimmigrant status or status under subparagraph (U) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)).

(B) CHANGE FROM Z–A STATUS.—A Z–A nonimmigrant may change status to Z nonimmigrant status at the time of renewal referenced in section 214A(j)(1)(C) of the Immigration and Nationality Act, as added by section 631.

(C) LIMIT ON CHANGES.—A Z nonimmigrant may not change status more than one time per 365-day period. The Secretary may, in the Secretary's discretion, waive the application of this subparagraph to an alien if it is established to the satisfaction of the Secretary that application of this subparagraph would result in extreme hardship to the alien.

(2) NO CHANGE TO Z NONIMMIGRANT STATUS.—A nonimmigrant under the immigration laws may not change status under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) to Z nonimmigrant status.

(m) EMPLOYMENT.—

(1) Z–1 AND Z–3 NONIMMIGRANTS.—

(A) IN GENERAL.—Z–1 nonimmigrants and Z–3 nonimmigrants shall be authorized to work in the United States.

(B) CONTINUOUS EMPLOYMENT REQUIREMENT.—All requirements that an alien be employed or seeking employment for purposes of this title shall not apply to an alien who is under 16 years or over 65 years of age. A Z–1 nonimmigrant or Z–3 nonimmigrant between 16 and 65 years of age, or an alien in proba-

tionary status between 16 and 65 years of age who is seeking to become a Z–1 or Z–3 nonimmigrant, shall remain continuously employed full time in the United States as a condition of such nonimmigrant status, except if—

(i) the alien is pursuing a full course of study at an established college, university, seminary, conservatory, trade school, academic high school, elementary school, or other academic institution or language training program;

(ii) the alien is employed while also engaged in study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or language training program;

(iii) the alien cannot demonstrate employment because of a physical or mental disability (as defined under section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) or as a result of pregnancy if such condition is evidenced by the submission of documentation prescribed by the Secretary; or

(iv) the alien's ability to work has been temporarily interrupted by an event that the Secretary has determined to be a force majeure interruption.

(2) Z–2 NONIMMIGRANTS.—Z–2 nonimmigrants shall be authorized to work in the United States.

(3) PORTABILITY.—Nothing in this subsection shall be construed to limit the ability of a Z nonimmigrant to change employers during the alien's period of authorized admission.

(n) TRAVEL OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—An alien who has been issued a secure ID card under subsection (j) and who is in probationary status or is a Z nonimmigrant—

(A) may travel outside of the United States; and

(B) may be readmitted (if otherwise admissible) without having to obtain a visa if—

(i) the alien's most recent period of authorized admission has not expired;

(ii) the alien is the bearer of valid documentary evidence of Z nonimmigrant status that satisfies the conditions set out in subsection (j); and

(iii) the alien is not subject to the bars on extension described in subsection (k)(2)(E).

(2) ADMISSIBILITY.—On seeking readmission to the United States after travel outside the United States an alien granted Z nonimmigrant status shall establish that such alien is not inadmissible, except as provided by subsection (d)(2).

(3) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the most recent period of authorized admission in the United States under subsection (k).

(o) TERMINATION OF BENEFITS.—

(1) IN GENERAL.—Any benefit provided to a Z nonimmigrant or an applicant for Z nonimmigrant status under this section shall terminate if—

(A) the Secretary determines that the alien is ineligible for such classification and all review procedures under section 603 of this Act have been exhausted or waived by the alien;

(B)(i) the alien is found removable from the United States under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227);

(ii) the alien becomes inadmissible under section 212 of such Act (8 U.S.C. 1227) (except as provided in subsection (d)(2)); or

(iii) the alien becomes ineligible under subsection (d)(1);

(C) the alien has used documentation issued under this section for unlawful or fraudulent purposes;

(D) in the case of the spouse or child of an alien applying for a Z nonimmigrant visa, in probationary status, or classified as a Z nonimmigrant under this section, the benefits for the principal alien are terminated;

(E) with respect to a Z–1 nonimmigrant or Z–3 nonimmigrant, the employment or study requirements under subsection (m) have been violated;

(F) with respect to an alien in probationary status, the alien's application for Z nonimmigrant status is denied; or

(G) with respect to an alien awarded probationary status who seeks to become a Z nonimmigrant or a Z–A nonimmigrant, the alien fails to complete the home application require-

ment set forth in subsection (e)(6) within 2 years of receiving a secure ID card.

(2) DENIAL OF IMMIGRANT VISA OR ADJUSTMENT APPLICATION.—Any application for an immigrant visa or adjustment of status to lawful permanent resident status made under this section by an alien whose Z nonimmigrant status is terminated under paragraph (1) shall be denied.

(3) DEPARTURE FROM THE UNITED STATES.—Any alien whose period of authorized admission or probationary benefits is terminated under paragraph (1), as well as the alien's Z–2 nonimmigrant or Z–3 nonimmigrant dependents, shall depart the United States immediately.

(4) INVALIDATION OF DOCUMENTATION.—Any documentation that is issued by the Secretary of Homeland Security under subsection (j) or pursuant to subsection (h)(4) to any alien, whose period of authorized admission terminates under paragraph (1), shall automatically be rendered invalid for any purpose except departure.

(p) REVOCATION.—If, at any time after an alien has obtained status under this section, but not yet adjusted such status to that of an alien lawfully admitted for permanent residence under section 602, the Secretary of

Homeland Security may, for good and sufficient cause, if it appears that the alien was not in fact eligible for status under this section, revoke the alien's status following appropriate notice to the alien.

(q) DISSEMINATION OF INFORMATION ON Z PROGRAM.—During the 2-year period immediately after the issuance of regulations implementing this title, the Secretary, in cooperation with entities approved by the Secretary, shall broadly disseminate information respecting Z nonimmigrant classification under this section and the requirements to be satisfied to obtain such classification. The Secretary shall disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in no fewer than the top 5 principal languages, as determined by the Secretary in the Secretary's discretion, spoken by aliens who would qualify for classification under this section, including to television, radio, and print media to which such aliens would have access.

(r) DEFINITIONS.—In this title:

(1) Z NONIMMIGRANT.—The term "Z nonimmigrant" means an alien admitted to the United States under subparagraph (Z) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.

1101(a)(15)), as added by subsection (b). The term does not include aliens granted probationary benefits under subsection (h) or whose applications for nonimmigrant status under such subparagraph (Z) have not yet been adjudicated.

(2) Z–1 NONIMMIGRANT.—The term ''Z–1 nonimmigrant'' means an alien admitted to the United States under clause (i) of section 101(a)(15)(Z) of the Immigration and Nationality Act, as added by subsection (b).

(3) Z–A NONIMMIGRANT.—The term ''Z–A nonimmigrant'' means an alien admitted to the United States under subparagraph (Z-A) of section 101(a)(15) of the Immigration and Nationality Act, as added by section 631.

(4) Z–2 NONIMMIGRANT.—The term ''Z–2 nonimmigrant'' means an alien admitted to the United States under clause (ii) of section 101(a)(15)(Z) of the Immigration and Nationality Act, as added by subsection (b).

(5) Z–3 NONIMMIGRANT.—The term ''Z–3 nonimmigrant'' means an alien admitted to the United States under clause (iii) of section 101(a)(15)(Z) of the Immigration and Nationality Act, as added by subsection (b).

SEC. 02. EARNED ADJUSTMENT FOR Z STATUS ALIENS.

(a) Z–1 NONIMMIGRANTS.—

(1) PROHIBITION ON IMMIGRANT VISA.—A Z–1 nonimmigrant may not be issued an immigrant visa pursuant to sections 221 and 222 of the Immigration and Nationality Act (8 U.S.C. 1201 and 1202).

(2) ADJUSTMENT.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the status of any Z–1 nonimmigrant may be adjusted by the Secretary to that of an alien lawfully admitted for permanent residence.

(3) REQUIREMENTS.—A Z–1 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, including the merit requirements set forth in section 203(b)(1)(A) of the Immigration and Nationality Act, as amended by section 502, the following requirements:

(A) STATUS.—The alien must be in valid Z–1 nonimmigrant status.

(B) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) or have an approved peti-

tion that was filed pursuant to the evaluation system under section 203(b)(1)(A) of such Act, as amended by section 502.

(C) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a) of such Act, except for those grounds previously waived under subsection (d)(2) of section 601.

(D) FEES AND PENALTIES.—In addition to the fees payable to the Secretary of Homeland Security and the Secretary of State in connection with the filing of an immigrant petition and application for adjustment of status, a Z–1 nonimmigrant who is the head of household shall pay a $4,000 penalty at the time of submission of any immigrant petition on the alien's behalf, regardless of whether the alien submits such petition on the alien's own behalf or the alien is the beneficiary of an immigrant petition filed by another party.

(b) Z–2 AND Z–3 NONIMMIGRANTS.—

(1) RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.—An application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence of a Z–2 nonimmigrant or a Z–3 nonimmigrant who is under

18 years of age may not be approved before the adjustment of status of the alien's principal Z–1 nonimmigrant.

(2) ADJUSTMENT OF STATUS.—

(A) ADJUSTMENT.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the status of any Z–2 nonimmigrant or Z–3 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(B) REQUIREMENTS.—A Z–2 nonimmigrant or Z–3 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, the following requirements:

(i) STATUS.—The alien must be in valid Z–2 nonimmigrant or Z–3 nonimmigrant status.

(ii) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) or have an approved petition that was filed

pursuant to the merit-based evaluation system under section 203(b)(1)(A) of such Act, as amended by section 502.

(iii) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), except for those grounds previously waived under subsection (d)(2) of section 601.

(iv) FEES.—The alien must pay the fees payable to the Secretary of Homeland Security and the Secretary of State in connection with the filing of an immigrant petition and application for an immigrant visa.

(c) MAINTENANCE OF WAIVERS OF INADMISSIBILITY.—The grounds of inadmissibility not applicable under subsection (d)(2) of section 601 shall also be considered inapplicable for purposes of admission as an immigrant or adjustment pursuant to this section.

(d) APPLICATION OF OTHER LAW.—In processing applications under this section on behalf of aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply—

(1) the provisions under section 204(a)(1)(J) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(J)); and

(2) the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

(e) BACK OF THE LINE.—An alien may not adjust status to that of a lawful permanent resident under this section until 30 days after an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, and 1153) that were filed before May 1, 2005.

(f) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted under this section shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

(g) MEDICAL EXAMINATION.—An applicant for earned adjustment shall undergo an appropriate medical examination (including a determination of immunization

status) that conforms to generally accepted professional standards of medical practice.

(h) PAYMENT OF INCOME TAXES.—

(1) IN GENERAL.—Not later than the date on which status is adjusted under this section, the applicant shall satisfy any applicable Federal tax liability accrued during the period of Z nonimmigrant status by establishing that—

(A) no such tax liability exists;

(B) all outstanding liabilities have been paid; or

(C) the applicant has entered into, and is in compliance with, an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to—

(A) the applicant, upon request, to establish the payment of all taxes required under this subsection; or

(B) the Secretary, upon request, regarding the payment of Federal taxes by an alien applying for a benefit under this section.

(i) DEPOSIT OF FEES.—Fees collected under this paragraph shall be deposited into the Immigration Examination Fee Account and shall remain available as provided under subsections (m) and (n) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(j) DEPOSIT OF PENALTIES.—Penalties collected under this paragraph shall be deposited into the Temporary Worker Program Account and shall remain available as provided under subsection (w) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 402.

SEC. __03. ADMINISTRATIVE REVIEW, REMOVAL PROCEEDINGS, AND JUDICIAL REVIEW FOR ALIENS WHO HAVE APPLIED FOR LEGAL STATUS.

(a) ADMINISTRATIVE REVIEW FOR ALIENS WHO HAVE APPLIED FOR STATUS UNDER THIS TITLE.—

(1) EXCLUSIVE REVIEW.—Administrative review of a determination respecting nonimmigrant status under this title shall be conducted solely in accordance with this subsection.

(2) ADMINISTRATIVE APPELLATE REVIEW.—Except as provided in subsection (b)(2), an alien whose status under this title has been denied, terminated, or revoked may file not more than one appeal

of the denial, termination, or rescission with the Secretary not later than 30 calendar days after the date of the decision or mailing thereof, whichever occurs later in time. The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of a denial, termination, or rescission of status under this Act.

(3) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional newly discovered or previously unavailable evidence as the administrative appellate review authority may decide to consider at the time of the determination.

(4) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the administrative appellate review process the alien may file not more than one motion to reopen or to reconsider. The Secretary's decision whether to consider any such motion is committed to the Secretary's discretion.

(b) REMOVAL OF ALIENS WHO HAVE BEEN DENIED STATUS UNDER THIS TITLE.—

(1) SELF-INITIATED REMOVAL.—Any alien who receives a denial under subsection (a) may request,

not later than 30 calendar days after the date of the denial or the mailing thereof, whichever occurs later in time, that the Secretary place the alien in removal proceedings. The Secretary shall place the alien in removal proceedings to which the alien would otherwise be subject, unless the alien is subject to an administratively final order of removal, provided that no court shall have jurisdiction to review the timing of the Secretary's initiation of such proceedings. If the alien is subject to an administratively final order of removal, the alien may seek review of the denial under this section pursuant to subsection (h) of section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as added by subsection (c), as though the order of removal had been entered on the date of the denial, provided that the court shall not review the order of removal except as otherwise provided by law.

(2) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(A) AGGRAVATED FELONS.—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under

subclause (II) of subsection 601(d)(1)(A)(vi) because the alien has been convicted of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))) may be placed forthwith in proceedings pursuant to section 238(b) of such Act (8 U.S.C. 1228(b)).

(B) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any other alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under subclause (I), (III), or (IV) of section 601(d)(1)(A)(vi) may be placed immediately in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(C) FINAL DENIAL, TERMINATION, OR RESCISSION.—The Secretary's denial, termination, or rescission of the status of any alien described in subparagraph (A) or (B) shall be final for purposes of subsection (h)(3)(C) of section 242 of the Immigration and Nationality Act, as added by subsection (c), and shall represent the exhaustion of all review procedures for purposes

of subsection (h) or (o) of section 601, notwithstanding subsection (a)(2) of this section.

(3) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection the alien may file not more than 1 motion to reopen or to reconsider. The Secretary's or Attorney General's decision whether to consider any such motion is committed to the discretion of the Secretary or the Attorney General, as appropriate.

(c) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

''(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINATIONS RELATING TO STATUS UNDER THE SECURE BORDERS, ECONOMIC OPPORTUNITY AND IMMIGRATION REFORM ACT OF 2007.—

''(1) EXCLUSIVE REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in this subsection, no court shall have jurisdiction to review a determination respecting an application for status under title ____ of the Secure Borders, Economic Oppor-

tunity and Immigration Reform Act of 2007, including, without limitation, a denial, termination, or rescission of such status.

"(2) NO REVIEW FOR LATE FILINGS.—An alien may not file an application for status under title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 beyond the period for receipt of such applications established by section __01(f) of that Act. The denial of any application filed beyond the expiration of the period established by that subsection shall not be subject to judicial review or remedy.

"(3) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS.—A denial, termination, or rescission of status under section __01 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 may be reviewed only in conjunction with the judicial review of an order of removal under this section, provided that—

"(A) the venue provision set forth in subsection (b)(2) shall govern;

"(B) the deadline for filing the petition for review in subsection (b)(1) shall control;

"(C) the alien has exhausted all administrative remedies available to the alien as of

right, including the timely filing of an administrative appeal pursuant to section __03(a) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007;

"(D) the court shall decide a challenge to the denial of status only on the administrative record on which the Secretary's denial, termination, or rescission was based;

"(E) notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court reviewing a denial, termination, or rescission of status under title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 may review any discretionary decision or action of the Secretary regarding any application for or termination or rescission of such status; and

"(F) an alien may file not more than 1 motion to reopen or to reconsider in proceedings brought under this section.

"(4) STANDARD FOR JUDICIAL REVIEW.—Judicial review of the Secretary of Homeland Security's denial, termination, or rescission of status under

title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 relating to any alien shall be based solely upon the administrative record before the Secretary when the Secretary enters a final denial, termination, or rescission. The administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. The legal determinations are conclusive unless manifestly contrary to law.

"(5) CHALLENGES ON VALIDITY OF THE SYSTEM.—

"(A) IN GENERAL.—Any claim that title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, or any regulation, written policy, or written directive issued or unwritten policy or practice initiated by or under the authority of the Secretary of Homeland Security to implement such title, violates the Constitution of the United States or is otherwise in violation of law, is available exclusively in an action instituted in the United States District Court for the District of Columbia in accordance with the procedures prescribed in this paragraph. Nothing in this sub-

paragraph shall preclude an applicant for status under such title from asserting that an action taken or decision made by the Secretary with respect to the applicant's status under such title was contrary to law in a proceeding under section __03 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and subsection (b)(2) of this section.

"(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph—

"(i) shall, if it asserts a claim that title ____ of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 or any regulation, written policy, or written directive issued by or under the authority of the Secretary to implement such title violates the Constitution or is otherwise unlawful, be filed not later than 1 year after the date of the publication or promulgation of the challenged regulation, policy, or directive or, in cases challenging the validity of such Act, not later than 1 year after the date of the enactment of such Act; and

"(ii) shall, if it asserts a claim that an unwritten policy or practice initiated by or under the authority of the Secretary violates the Constitution or is otherwise unlawful, be filed not later than 1 year after the plaintiff knew or reasonably should have known of the unwritten policy or practice.

"(C) CLASS ACTIONS.—Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with the Class Action Fairness Act of 2005 (Public Law 109–2; 119 Stat. 4), the amendments made by that Act, and the Federal Rules of Civil Procedure.

"(D) PRECLUSIVE EFFECT.—The final disposition of any claim brought under subparagraph (A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under section __03 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007.

"(E) EXHAUSTION AND STAY OF PROCEEDINGS.—No claim brought under this paragraph shall require the plaintiff to exhaust ad-

ministrative remedies under section __03 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, but nothing shall prevent the court from staying proceedings under this paragraph to permit the Secretary to evaluate an allegation of an unwritten policy or practice or to take corrective action. In issuing such a stay, the court shall take into account any harm the stay may cause to the claimant. The court shall have no authority to stay proceedings initiated under any other section of this Act.''.

SEC. __04. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

(1) use the information furnished by the applicant pursuant to an application filed under section __01 and __02, for any purpose, other than to make a determination on the application;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn officers, employees or contractors of such agency, bu-

reau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to—

(1) a law enforcement entity, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or

not the death of such individual resulted from a crime.

(c) INAPPLICABILITY AFTER DENIAL.—The limitations under subsection (a)—

(1) shall apply only until an application filed under section __01 and __02 is denied and all opportunities for administrative appeal of the denial have been exhausted; and

(2) shall not apply to the use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

(d) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this section, information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections __01 and __02, any application to extend such status under section __01(k), or any application to adjust status to that of an alien lawfully admitted for permanent residence

under section __02, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section __02, then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections __01 or __02 to make a determination on any petition or application.

(g) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections __01 or __02, other than information furnished by an applicant pursuant to

the application, or any other information derived from the application, that is not available from any other source.

(i) REFERENCES.—References in this section to section __01 or __02 are references to sections __01 and __02 of this Act and the amendments made by those sections.

SEC. __05. EMPLOYER PROTECTIONS.

(a) IN GENERAL.—Copies of employment records or other evidence of employment provided by an alien or by an alien's employer in support of an alien's application for Z nonimmigrant status shall not be used in a prosecution or investigation (civil or criminal) of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by title ____, or under the tax laws of the United States for the prior unlawful employment of that alien, regardless of the adjudication of such application or reconsideration by the Secretary of such alien's prima facie eligibility determination.

(b) APPLICABILITY OF OTHER LAW.—Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

SEC. __06. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the prompt enumeration of a social security account number after the Secretary has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

SEC. __07. PRECLUSION OF SOCIAL SECURITY CREDITS FOR YEARS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by striking subsection (c) and inserting the following:

''(c)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (d) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number prior to January 1, 2004.

"(d) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (c).".

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security Act (42 U.S.C. 415(e)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) in computing the average indexed monthly earnings of an individual, there shall not be counted any wages or self-employment income for any year for which no quarter of coverage may be credited to such individual as a result of the application of section 214(c).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment

income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SEC. __08. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) PROCEDURES.—The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in section __01(e)(5)(B) and section __02(a)(3)(D) through an installment payment plan.

(b) USE.—Any penalties received under this title with respect to an application for Z–1 nonimmigrant status shall be used in the following order of priority:

(1) Such penalties shall be credited as offsetting collections to appropriations provided pursuant to section __11 for the fiscal year in which this Act is enacted and the subsequent fiscal year.

(2) Such penalties shall be deposited and remain available as otherwise provided under this title.

SEC. __09. LIMITATIONS ON ELIGIBILITY.

(a) IN GENERAL.—An alien is not ineligible for any immigration benefit under any provision of this title, or any amendment made by this title, solely on the basis that the alien violated section 1543, 1544, or 1546 of title 18,

United States Code, or any amendments made by this Act, during the period beginning on the date of the enactment of this Act and ending on the date on which the alien applies for any benefits under this title, except with respect to any forgery, fraud, or misrepresentation on the application for Z nonimmigrant status filed by the alien.

(b) PROSECUTION.—An alien who commits a violation of section 1543, 1544, or 1546 of title 18, United States Code, or any amendments made by this Act, during the period beginning on the date of the enactment of this Act and ending on the date on which the alien applies for eligibility for an immigration benefit described in subsection (a) may be prosecuted for the violation if the alien's application for such benefit is denied.

SEC. __10. RULEMAKING.

(a) INTERIM FINAL RULE.—The Secretary shall issue an interim final rule within 6 months of the date of the enactment of this subtitle to implement this title and the amendments made by this title. The interim final rule shall become effective immediately upon publication in the Federal Register. The interim final rule shall sunset 2 years after issuance unless the Secretary issues a final rule within 2 years of the issuance of the interim final rule.

(b) EXEMPTION.—The exemption provided under this section shall sunset not later than 2 years after the date of the enactment of this subtitle, provided that, such sunset shall not be construed to impose any requirements on, or affect the validity of, any rule issued or other action taken by the Secretary under such exemptions.

SEC. __11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this title and the amendments made by this title.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that funds authorized to be appropriated under subsection (a) should be directly appropriated so as to facilitate the orderly and timely commencement of the processing of applications filed under sections __01 and __02.

Subtitle B—Dream Act

SEC. __20. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2007'' or the ''DREAM Act of 2007''.

SEC. 21. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 22. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary of Homeland Security may beginning on the date that is 3 years after the date of the enactment of this Act adjust to the status of an alien lawfully admitted for permanent residence an alien who is determined to be eligible for or has been granted probationary or Z nonimmigrant status if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period since

January 1, 2007, is under 30 years of age on the date of the enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has earned a high school diploma or obtained a general education development certificate in the United States;

(C) subject to paragraph (2), the alien has not abandoned the alien's residence in the United States;

(D) the alien has—

(i) acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States; or

(ii) served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge;

(E) the alien has provided a list of all of the secondary educational institutions that the alien attended in the United States; and

(F) the alien is in compliance with the eligibility and admissibility criteria set forth in section 601(d).

(2) ABANDONMENT.—The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(b) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—Solely for purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien who has been granted probationary or Z nonimmigrant status and has satisfied the requirements of paragraphs (A) through (F) of subsection (a)(1) shall beginning on the date that is 8 years after the date of the enactment of this Act be considered to have satisfied the requirements of section 316(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1427(a)(1)).

(c) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a nu-

merical limitation on the number of aliens who may be eligible for adjustment of status.

(d) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

SEC. 23. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that no additional fee will be charged to an applicant for a Z nonimmigrant visa for applying for benefits under this subtitle.

SEC. 24. HIGHER EDUCATION ASSISTANCE.

(a) INAPPLICABILITY OF OTHER LAWS.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) shall have no force

or effect with respect to an alien who has been granted probationary or Z nonimmigrant status.

(b) ASSISTANCE.—Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this title, or who is a probationary Z or Z nonimmigrant under this title and who meets the eligibility criteria set forth in subparagraphs (A), (B), and (F) of section 622(a)(1), shall be eligible for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV, subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV, subject to the requirements of such part.

(3) Services under such title IV, subject to the requirements for such services.

SEC. __25. DELAY OF FINES AND FEES.

(a) IN GENERAL.—Payment of the penalties and fees specified in section __01(e)(5) shall not be required with respect to an alien who meets the eligibility criteria set forth in subparagraphs (A), (B), and (F) of section

__22(a)(1) until the date that is 6 years and 6 months after the date of the enactment of this Act or the alien reaches the age of 24, whichever is later. If the alien makes all of the demonstrations specified in section __22(a)(1) by such date, the penalties shall be waived. If the alien fails to make the demonstrations specified in section __22(a)(1) by such date, the alien's Z nonimmigrant status will be terminated unless the alien pays the penalties and fees specified in section __01(e)(5) consistent with the procedures set forth in section __08 within 90 days.

(b) REFUNDS.—With respect to an alien who meets the eligibility criteria set forth in subparagraphs (A) and (F) of section __22(a)(1), but not the eligibility criteria in section __22(a)(1)(B), the individual who pays the penalties specified in section __01(e)(5) shall be entitled to a refund when the alien makes all the demonstrations specified in section __22(a)(1).

SEC. __26. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for adjustment of status under section __22;

(2) the number of aliens who applied for adjustment of status under section __22; and

(3) the number of aliens who were granted adjustment of status under section __22.

SEC. __27. REGULATIONS; EFFECTIVE DATE; AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary of Homeland Security shall issue regulations to carry out the amendments made by this subtitle not later than the first day of the seventh month that begins after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation.

Subtitle C—Agricultural Workers

SEC. __30. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

PART I—ADMISSION

SEC. __31. ADMISSION OF AGRICULTURAL WORKERS.

(a) Z–A NONIMMIGRANT VISA CATEGORY.—

(1) ESTABLISHMENT.—Paragraph (15) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by section __01(b), is further amended by adding at the end the following new subparagraph:

''(Z–A)(i) an alien who is coming to the United States to perform any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), agricultural labor under section 3121(g) of the Internal Revenue Code of 1986, or the performance of agricultural labor or services described in subparagraph (H)(ii)(a), who meets the requirements of section 214A; or

"(ii) the spouse or minor child of an alien described in clause (i) who is residing in the United States.".

(b) REQUIREMENTS FOR ISSUANCE OF NONIMMIGRANT VISA.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 214 the following:

"SEC. 214A. ADMISSION OF AGRICULTURAL WORKERS.

"(a) DEFINITIONS.—In this section:

"(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

"(2) DEPARTMENT.—The term 'Department' means the Department of Homeland Security.

"(3) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

"(4) QUALIFIED DESIGNATED ENTITY.—The term 'qualified designated entity' means—

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

"(B) any such other person designated by the Secretary if the Secretary determines such person is qualified and has substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245, the Act entitled 'An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by such Act.

"(5) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

"(6) TEMPORARY.—A worker is employed on a 'temporary' basis when the employment is intended not to exceed 10 months.

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

"(8) Z–A DEPENDENT VISA.—The term 'Z–A dependent visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(ii).

"(9) Z–A VISA.—The term 'Z–A visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(i).

"(b) AUTHORIZATION FOR PRESENCE, EMPLOYMENT, AND TRAVEL IN THE UNITED STATES.—

"(1) IN GENERAL.—An alien issued a Z–A visa or a Z–A dependent visa may remain in, and be employed in, the United States during the period such visa is valid.

"(2) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is issued a Z–A visa or a Z–A dependent visa an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

"(3) AUTHORIZED TRAVEL.—An alien who is issued a Z–A visa or a Z–A dependent visa is authorized to travel outside the United States (including commuting to the United States from a resi-

dence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

"(c) QUALIFICATIONS.—

"(1) Z–A VISA.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, issued a Z–A visa to an alien if the Secretary determines that the alien—

"(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006;

"(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of the enactment of this Act;

"(C) is admissible to the United States under section 212, except as otherwise provided in paragraph (4);

"(D) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; and

"(E) meets the requirements of paragraph (3).

"(2) Z–A DEPENDENT VISA.—Notwithstanding any other provision of law, the Secretary shall issue a Z–A dependent visa to an alien who is—

"(A) described in section 101(a)(15)(Z–A)(ii);

"(B) meets the requirements of paragraph (3); and

"(C) is admissible to the United States under section 212, except as otherwise provided in paragraph (4).

"(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

"(A) FINGERPRINTS.—An alien seeking a Z–A visa or a Z–A dependent visa shall submit fingerprints to the Secretary at such time and in manner as the Secretary may require.

"(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints provided under subparagraph (A) and other biometric data provided by an alien to conduct a background check of the alien, including searching the alien's criminal history and any law enforcement actions taken with respect to the alien and ensuring that the alien is not a risk to national security.

"(4) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for a Z–A visa or a Z–A dependent visa the following shall apply:

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any provision of section 212(a), other than the paragraphs described in subparagraph (A), in the case of individual aliens for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—Except as provided in subparagraph (C), subparagraphs (A), (B), and (C) of paragraph (2), and paragraphs (3) and (4) of section 212(a) may not be waived by the Secretary under clause (i).

"(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as af-

fecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for a Z–A visa or a Z–A dependent visa by reason of a ground of inadmissibility under section 212(a)(4) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(d) APPLICATION.—

"(1) IN GENERAL.—An alien seeking a Z–A visa shall submit an application to the Secretary for such a visa, including information regarding any Z–A dependent visa for the spouse of child of the alien.

"(2) SUBMISSION.—Applications for a Z–A visa under paragraph (1) may be submitted—

"(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations (or similar successor regulations); or

"(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

"(3) PROOF OF ELIGIBILITY.—

"(A) IN GENERAL.—An alien may establish that the alien meets the requirement for a Z–A visa through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

"(B) DOCUMENTATION OF WORK HISTORY.—

"(i) BURDEN OF PROOF.—An alien applying for a Z–A visa or applying for adjustment of status described in subsection (j) has the burden of proving by a preponderance of the evidence that the alien has performed the requisite number of hours or days of agricultural employment required for such application or adjustment of status, as applicable.

"(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of such records under regulations to be promulgated by the Secretary.

"(iii) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under clause (i) to establish that the alien has performed the requisite number of hours or days of agricultural employment by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

"(4) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

"(A) REQUIREMENTS.—Each qualified designated entity shall agree—

"(i) to forward to the Secretary an application submitted to that entity pursuant to paragraph (2)(B) if the alien for

whom the application is being submitted has consented to such forwarding;

"(ii) not to forward to the Secretary any such application if such an alien has not consented to such forwarding; and

"(iii) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

"(B) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this section to be made by the Secretary.

"(5) APPLICATION FEES.——

"(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

"(i) shall be charged for applying for a Z–A visa under this section or for an adjustment of status described in subsection (j); and

"(ii) may be charged by qualified designated entities to help defray the costs of services provided to such aliens making such an application.

"(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A quali-

fied designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

"(6) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order.

"(7) TREATMENT OF APPLICANTS.—

"(A) IN GENERAL.—An alien who files an application under this section to receive a Z–A visa and any spouse or child of the alien seeking a Z–A dependant visa, on the date described in subparagraph (B)—

"(i) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

"(ii) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

"(iii) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z–A visa; and

"(iv) may not be considered an unauthorized alien (as defined in section 274A) until the date on which the alien's application for a Z–A visa is denied.

"(B) TIMING OF PROBATIONARY BENEFITS.—

"(i) IN GENERAL.—Subject to clause (ii), an alien who submits an application for a Z–A visa under this subsection, including any evidence required under this subsection, and any spouse or child of the alien seeking a Z–A dependent visa shall receive the probationary benefits described in clauses (i) through (iv) of subparagraph (A) at the earlier of—

"(I) the date and time that the alien has passed all appropriate background checks, including name and fingerprint checks; or

"(II) the end of the next business day after the date that the Secretary receives the alien's application for a Z–A visa.

"(ii) EXCEPTION.—If the Secretary determines that the alien fails the background checks referred to in clause (i)(I), the alien may not be granted probationary benefits described in clauses (i) through (iv) of subparagraph (A).

"(C) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien granted probationary benefits described in clauses (i) through (iv) of subparagraph (A) with a counterfeit-resistant document that reflects the benefits and status set forth in subparagraph (A). The Secretary may, by regulation, establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed.

"(D) CONSTRUCTION.—Nothing in this section may be construed to limit the Secretary's authority to conduct any appropriate

background and security checks subsequent to issuance of evidence of probationary benefits under this paragraph.

"(8) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(A) BEFORE APPLICATION PERIOD.—Beginning on the date of the enactment of the AgJOBS Act of 2007, the Secretary shall provide that, in the case of an alien who is apprehended prior to the first date of the application period described in subsection (c)(1)(B) and who can establish a nonfrivolous case of eligibility for a Z–A visa (but for the fact that the alien may not apply for such status until the beginning of such period), the alien—

"(i) may not be removed; and

"(ii) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

"(B) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for Z–A visa during the application period de-

scribed in subsection (c)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

"(i) may not be removed; and

"(ii) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

"(e) NUMERICAL LIMITATIONS.—

"(1) Z–A VISA.—The Secretary may not issue more than 1,500,000 Z–A visas.

"(2) Z–A DEPENDENT VISA.—The Secretary may not count any Z–A dependent visa issued against the numerical limitation described in paragraph (1).

"(f) EVIDENCE OF NONIMMIGRANT STATUS.—

"(1) IN GENERAL.—Documentary evidence of nonimmigrant status shall be issued to each alien granted a Z–A visa or a Z–A dependent visa.

"(2) FEATURES OF DOCUMENTATION.—Documentary evidence of a Z–A visa or a Z–A dependent visa—

"(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

"(B) shall be designed in consultation with U.S. Immigration and Customs Enforcement's Forensic Document Laboratory;

"(C) shall serve as a valid travel and entry document for an alien granted a Z–A visa or a Z–A dependent visa for the purpose of applying for admission to the United States where the alien is applying for admission at a port of entry;

"(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A; and

"(E) shall be issued to the alien granted the visa by the Secretary promptly after final adjudication of such alien's application for the visa, except that an alien may not be granted a Z–A visa or a Z–A dependent visa until all

appropriate background checks on each alien are completed to the satisfaction of the Secretary.

"(g) FINE.—An alien granted a Z–A visa shall pay a fine of $100 to the Secretary.

"(h) TREATMENT OF ALIENS GRANTED A Z–A VISA.—

"(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien issued a Z–A visa or a Z–A dependent visa shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of this Act.

"(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien issued a Z–A visa shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under subsection (d).

"(3) TERMS OF EMPLOYMENT.—

"(A) PROHIBITION.—No alien issued a Z–A visa may be terminated from employment by

any employer during the period of a Z–A visa except for just cause.

"(B) TREATMENT OF COMPLAINTS.—

"(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens issued a Z–A visa who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

"(ii) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with clause (i) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Serv-

ice for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

''(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this subparagraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termi-

nation. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

''(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is issued a Z–A visa without just cause, the Secretary shall credit the alien for the number of days of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of subsection (f)(2).

"(v) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this subparagraph shall bear the cost of their own attorney's fees for the arbitration.

"(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

"(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or

hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

"(4) RECORD OF EMPLOYMENT.—

"(A) IN GENERAL.—Each employer of an alien who is issued a Z–A visa shall annually—

"(i) provide a written record of employment to the alien; and

"(ii) provide a copy of such record to the Secretary.

"(B) CIVIL PENALTIES.—

"(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien issued a Z–A visa has failed to provide the record of employment required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

"(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has

provided the employer with evidence of employment authorization granted under this subsection.

"(i) TERMINATION OF A GRANT OF Z–A VISA..—

"(1) IN GENERAL.—The Secretary may terminate a Z–A visa or a Z–A dependent visa issued to an alien only if the Secretary determines that the alien is deportable.

"(2) GROUNDS FOR TERMINATION.—Prior to the date that an alien granted a Z–A visa or a Z–A dependent visa becomes eligible for adjustment of status described in subsection (j), the Secretary may deny adjustment to permanent resident status and provide for termination of the alien's Z–A visa or Z–A dependent visa if—

"(A) the Secretary finds, by a preponderance of the evidence, that the issuance of a Z–A visa was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i)); or

"(B) the alien—

"(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(4);

"(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

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

"(iv) in the case of an alien issued a Z–A visa, fails to perform the agricultural employment described in subsection (j)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (j)(1)(A)(iii).

"(3) REPORTING REQUIREMENT.—The Secretary shall promulgate regulations to ensure that the alien issued a Z–A visa complies with the qualifying agricultural employment described in subsection (j)(1)(A) at the end of the 5-year work period, which may include submission of an application pursuant to this subsection.

"(j) ADJUSTMENT TO PERMANENT RESIDENCE.—

"(1) Z–A VISA.—Except as provided in this subsection, the Secretary shall award the maximum number of points available pursuant to section

203(b)(1) and adjust the status of an alien issued a Z–A visa to that of an alien lawfully admitted for permanent residence under this Act, if the Secretary determines that the following requirements are satisfied:

"(A) QUALIFYING EMPLOYMENT.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the alien has performed at least—

"(I) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of the AgJOBS Act of 2007; or

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

"(ii) FOUR-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of clause (i) if the alien has performed 4 years of agricultural employment in the United States for at

least 150 workdays during 3 years of those 4 years and at least 100 workdays during the remaining year, during the 4-year period beginning on such date of enactment.

"(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of clause (i), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that clause if the alien was unable to work in agricultural employment due to—

"(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

"(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

"(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

"(B) PROOF.—An alien may demonstrate compliance with the requirements of subparagraph (A) by submitting—

"(i) the record of employment described in subsection (h)(4); or

"(ii) such documentation as may be submitted under subsection (d)(3).

"(C) APPLICATION PERIOD.—Not later than 8 years after the date of the enactment of the AgJOBS Act of 2007, the alien must—

"(i) apply for adjustment of status; or

"(ii) renew the alien's Z visa status as described in section 601(k)(2).

"(D) FINE.—The alien pays to the Secretary a fine of $400.

"(2) SPOUSES AND MINOR CHILDREN.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under paragraph (1), including any individual who was a minor child on the date such alien was granted a Z–A visa, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor

child in an application for adjustment of status to that of a lawful permanent resident.

"(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted a Z–A visa or a Z–A dependent visa an adjustment of status under this Act and provide for termination of such visa if—

"(A) the Secretary finds by a preponderance of the evidence that grant of the Z–A visa was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i)); or

"(B) the alien—

"(i) commits an act that makes the alien inadmissible to the United States under section 212, except as provided under subsection (c)(4);

"(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

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

"(4) GROUNDS FOR REMOVAL.—Any alien granted Z–A visa status who does not apply for ad-

justment of status or renewal of Z status under section __01(k)(2) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 prior to the expiration of the application period described in subsection (c)(1)(B) or who fails to meet the other requirements of paragraph (1) by the end of the application period, is deportable and may be removed under section 240.

"(5) PAYMENT OF TAXES.—

"(A) IN GENERAL.—Not later than the date on which an alien's status is adjusted as described in this subsection, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

"(i) no such tax liability exists;

"(ii) all such outstanding tax liabilities have been paid; or

"(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

"(B) APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for

any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

"(C) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

"(6) ENGLISH LANGUAGE.—

"(A) IN GENERAL.—Not later than the date on which a Z–A nonimmigrant's status is adjusted or renewed under section __01(k)(2) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, a Z–A nonimmigrant who is 18 years of age or older shall pass the naturalization test described in paragraph (1) and (2) of section 312(a).

"(B) EXCEPTION.—The requirement of subparagraph (A) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z–A nonimmigrant status—

"(i) is unable because of physical or developmental disability or mental impairment to comply therewith;

"(ii) is over 50 years of age and has been living in the United States for periods totaling at least 20 years; or

"(iii) is over 55 years of age and has been living in the United States for periods totaling at least 15 years.

"(7) PRIORITY OF APPLICATIONS.—

"(A) BACK OF LINE.—An alien may not adjust status to that of a lawful permanent resident under this subsection until 30 days after the date on which an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 that were filed before May 1, 2005 (referred to in this paragraph as the 'processing date').

"(B) OTHER APPLICANTS.—The processing of applications for an adjustment of status under this subsection shall be processed not later than 1 year after the processing date.

"(C) CONSULAR APPLICATION.—

"(i) IN GENERAL.—A Z–A nonimmigrant's application for adjustment of

status to that of an alien lawfully admitted for permanent residence shall be filed in person with a United States consulate abroad.

"(ii) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, a Z–A nonimmigrant applying for adjustment of status under this paragraph shall make an application at a consular office in the alien's country of origin. The Secretary of State shall direct a consular office in a country that is not a Z–A nonimmigrant's country of origin to accept an application for adjustment of status from such an alien, where the Z–A nonimmigrant's country of origin is not contiguous to the United States, and as consular resources make possible.

"(k) CONFIDENTIALITY OF INFORMATION.—Applicants for Z–A nonimmigrant status under this section shall be afforded confidentiality as provided under section __04 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007.

"(l) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

"(1) CRIMINAL PENALTY.—Any person who—

"(A) applies for a Z–A visa or a Z–A dependent visa under this section or an adjustment of status described in subsection (j) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

"(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

"(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

"(m) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–54) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996

et seq.) from providing legal assistance directly related to an application for a Z–A visa under subsection (b) or an adjustment of status under subsection (j).

"(n) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative or judicial review of a determination on an application for a Z–A visa shall be such as is provided under section __03 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007.

"(o) PUBLIC OUTREACH.—Beginning not later than the first day of the application period described in subsection (c)(1)(B), the Secretary shall cooperate with qualified designated entities to broadly disseminate information regarding the availability of Z–A visas, the benefits of such visas, and the requirements to apply for and be granted such a visa.".

(c) NUMERICAL LIMITATIONS.—

(1) WORLDWIDE LEVEL OF IMMIGRATION.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)), as amended by this Act, is further amended—

(A) in subparagraph (A), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (N)"; and

(B) by adding at the end the following:

"(N) Aliens issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) who receive an adjustment of status to that of an alien lawfully admitted for permanent residence.".

(2) NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.—Section 202(a) of such Act (8 U.S.C. 1152) is amended by adding at the end the following:

"(6) SPECIAL RULE FOR Z–A NONIMMIGRANTS.—An immigrant visa may be made available to an alien issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) without regard to the numerical limitations of this section.".

(d) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 214 the following:

"Sec. 214A. Admission of agricultural workers.".

SEC. __32. AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

"(y) AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Agricultural Worker Immigration Status Adjustment Account'. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 214A.

"(2) USE OF FEES.—The fees deposited into the Agricultural Worker Immigration Status Adjustment Account shall be used by the Secretary of Homeland Security for processing applications made by aliens seeking nonimmigrant status under section 101(a)(15)(Z–A) or for processing applications made by such an alien who is seeking an adjustment of status.

"(3) AVAILABILITY OF FUNDS.—All amounts deposited in the Agricultural Worker Immigration Status Adjustment Account under this subsection shall remain available until expended.".

SEC. __33. REGULATIONS; EFFECTIVE DATE; AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to carry out the amendments made by this subtitle

not later than the first day of the seventh month that begins after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle and the amendments made by this subtitle, including any sums needed for costs associated with the initiation of such implementation.

SEC. 34. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted nonimmigrant status pursuant to section 101(a)(15)(Z–A) of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted such nonimmigrant status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

SEC. ____. ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.

(a) IN GENERAL.—Section 101(a)(15)(Z) of the Immigration and Nationality Act, as added by section 601(b), is amended to read as follows:

"(Z) subject to title VI of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, an alien who—

"(i)(I) has maintained a continuous physical presence in the United States since the date that is 4 years before the date of the enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007;

"(II) is employed, and seeks to continue performing labor, services, or education; and

"(III) the Secretary of Homeland Security determines has sufficient ties to a community in the United States, based on—

"(aa) whether the applicant has immediate relatives (as defined in section 201(b)(2)(A)) residing in the United States;

"(bb) the amount of cumulative time the applicant has lived in the United States;

"(cc) whether the applicant owns property in the United States;

"(dd) whether the applicant owns a business in the United States;

"(ee) the extent to which the applicant knows the English language;

"(ff) the applicant's work history in the United States;

"(gg) whether the applicant attended school (either primary, secondary, college, post-graduate) in the United States;

"(hh) the extent to which the applicant has a history of paying Federal and State income taxes;

"(ii) whether the applicant has been convicted of criminal activity in the United States; and

"(jj) whether the applicant has certifies his or her intention to ultimately become a United States citizen;

"(ii)(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i);

"(II) was, during the 2-year period ending on the date on which the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

"(aa) the termination of the relationship with such spouse was connected to domestic violence; and

"(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant; or

"(III) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph and was born to, or legally adopted by, a parent described in clause (i).".

(b) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall

promulgate regulations, in accordance with the procedures set forth in sections 555, 556, and 557 of title 5, United States Code, which establish the precise system that the Secretary shall use to make a determination under section 101(a)(15)(Z)(ii) of the Immigration and Nationality Act, as added by subsection (a).

(c) ADDITIONAL Z NONIMMIGRANT ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any provision of section 601(e), an alien is not eligible for Z–1 or Z–2 nonimmigrant status, or for nonimmigrant status under section 101(a)(15)(Z)(iii)(I) of the Immigration and Nationality Act unless—

(A) the alien was physically present in the United States on the date that is 4 years before the date of the enactment of this Act and has maintained physical presence in the United States since that date; and

(B) the alien was, on the date that is 4 years before the date of the enactment of this Act, not present in lawful status in the United States under any classification described in section 101(a)(15) of the Immigration and Nationality Act or any other immigration status made

available under a treaty or other multinational agreement that has been ratified by the Senate.

(2) TREATMENT OF APPLICANTS.—Notwithstanding any provision of section 601(h), an alien who files an application for Z nonimmigrant status shall submit sufficient evidence that the alien resided in the United States for not less than 4 years before the date of the enactment of this Act before receiving any benefit under section 601(h).

(3) APPLICATION.—Notwithstanding any provision of section 602(a)(1), a Z–1 nonimmigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence may be filed in person with a United States consulate outside the United States or with United States Citizenship and Immigration Services at any location in the United States designated by the Secretary.

SEC. ____. PROHIBITION ON ADJUSTMENT OF STATUS FOR Z NONIMMIGRANTS.

Notwithstanding any provision of section 602—

(1) a Z nonimmigrant may not be issued an immigrant visa pursuant to section 221 or 222 of the Immigration and Nationality Act (8 U.S.C. 1201 and 1202); and

(2) the status of a Z nonimmigrant may not be adjusted to that of an alien lawfully admitted for permanent residence.

SEC. ____. FAMILY-SPONSORED IMMIGRANTS.

(a) PREFERENCE CATEGORIES.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), as amended by section 503(c) of this Act, is further amended to read as follows:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted immigrant visas as follows:

"(1) PARENTS OF A CITIZEN OF THE UNITED STATES IF THE CITIZEN IS AT LEAST 21 YEARS OF AGE.—Qualified immigrants who are the parents of a citizen of the United States if the citizen at least 21 years of age shall be allocated immigrant visas in a number not to exceed the sum of—

"(A) 90,000; and

"(B) the number of visas not required for the classes specified in paragraph (3).

"(2) SPOUSES OR CHILDREN OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE OR A NATIONAL.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or a noncitizen national of the United States (as defined in section 101(a)(22)(B)) who is resident in the United States shall be allo-

cated immigrant visas in a number not to exceed the sum of—

"(A) 87,000; and

"(B) the number of visas not required for the class specified in paragraph (1).

"(3) FAMILY-SPONSORED IMMIGRANTS WHO ARE BENEFICIARIES OF FAMILY-BASED VISA PETITIONS FILED BEFORE MAY 1, 2005.—Immigrant visas totaling 440,000 shall be allotted as follows:

"(A) Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed the sum of—

"(i) 70,400; and

"(ii) the number of visas not required for the class specified in subparagraph (D).

"(B) Qualified immigrants who are the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, shall be allocated visas in a number not to exceed the sum of—

"(i) 110,000; and

"(ii) the number of visas not required for the class specified in subparagraph (A).

"(C) Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed the sum of—

"(i) 70,400; and

"(ii) the number of visas not required for the classes specified in subparagraphs (A) and (B).

"(D) Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed the sum of—

"(i) 189,200; and

"(ii) the number of visas not required for the classes specified in subparagraphs (A), (B), and (C).".

(b) PARENT VISITOR VISAS.—Section 214(s) of the Immigration and Nationality Act, as added by section 506(b) of this Act, is amended to read as follows:

"(s) PARENT VISITOR VISAS.—

"(1) IN GENERAL.—The parent of a United States citizen at least 21 years of age, or the spouse or child of an alien in nonimmigrant status under 101(a)(15)(Y)(i), demonstrating satisfaction of the

requirements of this subsection may be granted a renewable nonimmigrant visa valid for 3 years for a visit or visits for an aggregate period not in excess of 180 days in any one year period under section 101(a)(15)(B) as a temporary visitor for pleasure.

"(2) REQUIREMENTS.—An alien seeking a nonimmigrant visa under this subsection must demonstrate through presentation of such documentation as the Secretary may by regulations prescribe, that—

"(A) the alien's United States citizen son or daughter who is at least 21 years of age or the alien's spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), is sponsoring the alien's visit to the United States;

"(B) the sponsoring United States citizen, or spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), has, according to such procedures as the Secretary may by regulations prescribe, posted on behalf of the alien a bond in the amount of $1,000, which shall be forfeited if the alien overstays the authorized period of admission (except as provided in subparagraph (5)(B)) or otherwise violates the

terms and conditions of his or her nonimmigrant status; and

"(C) the alien, the sponsoring United States citizen son or daughter, or the spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), possesses the ability and financial means to return the alien to his or her country of residence.

"(3) TERMS AND CONDITIONS.—An alien admitted as a visitor for pleasure under the provisions of this subsection—

"(A) may not stay in the United States for an aggregate period in excess of 180 days within any calendar year unless an extension of stay is granted upon the specific approval of the district director for good cause;

"(B) shall, according to such procedures as the Secretary may by regulations prescribe, register with the Secretary upon departure from the United States; and

"(C) may not be issued employment authorization by the Secretary or be employed.

"(4) PERMANENT BARS FOR OVERSTAYS.—

"(A) IN GENERAL.—Any alien admitted as a visitor for pleasure under the terms and con-

ditions of this subsection who remains in the United States beyond his or her authorized period of admission is permanently barred from any future immigration benefits under the immigration laws, except—

"(i) asylum under section 208(a);

"(ii) withholding of removal under section 241(b)(3); or

"(iii) protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

"(B) EXCEPTION.—Overstay of the authorized period of admission granted to aliens admitted as visitors for pleasure under the terms and conditions of this subsection may be excused in the discretion of the Secretary where it is demonstrated that:

"(i) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstances; and

"(ii) the alien has not otherwise violated his or her nonimmigrant status.

"(5) BAR ON SPONSOR OF OVERSTAY.—The United States citizen or Y–1 nonimmigrant sponsor of an alien—

"(A) admitted as a visitor for pleasure under the terms and conditions of this subsection, and

"(B) who remains in the United States beyond his or her authorized period of admission, shall be permanently barred from sponsoring that alien for admission as a visitor for pleasure under the terms and conditions of this subsection, and, in the case of a Y–1 nonimmigrant sponsor, shall have his Y–1 nonimmigrant status terminated.

"(6) CONSTRUCTION.—Except as specifically provided in this subsection, nothing in this subsection may be construed to make inapplicable—

"(A) the requirements for admissibility and eligibility; or

"(B) the terms and conditions of admission as a nonimmigrant under section 101(a)(15)(B).".

SEC. ____. REDUCING CHAIN MIGRATION AND PERMITTING PETITIONS BY NATIONALS.

(a) PREFERENCE CATEGORIES.—Section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), as amended by section 503(c), is further amended—

(1) by striking ''not to exceed'' and inserting ''equal to''; and

(2) by adding at the end the following: ''If the number of visas issued pursuant to this paragraph is fewer than 87,000, such unused visas may be available for visas issued pursuant to paragraph (1).''.

(b) PARENT VISITOR VISAS.—Section 214(s)(4) of the Immigration and Nationality Act, as added by section 506(b), is amended by striking ''7 percent'' each place it appears and inserting ''5 percent''.

SEC. ____. EFFECT OF EXTENDED FAMILY ON MERIT-BASED EVALUATION SYSTEM.

Section 203(b)(1)(A) of the Immigration and Nationality Act, as amended by section 502(b)(1), is amended by striking the merit-based evaluation system set forth in all the matter relating to ''Extended family'' and insert the following:

Extended family	Adult (21 or older) son or daughter of a United States citizen – **10 points** Adult (21 or older) son or daughter of a legal permanent resident – **10 points** Sibling of a United States citizen or legal permanent resident – **10 points** If an alien had applied for a family visa in any of the above categories after May 1, 2005 – **5 points**	**15**
Total		**105**

SEC. ____. IDENTIFICATION CARD STANDARDS.

(a) REPEAL.—Section 306 of this Act is repealed.

(b) LIMITATION.—Notwithstanding any other provision of this Act or the amendments made by this Act—

(1) no Federal agency may require that a driver's license or personal identification card meet the standards specified under the REAL ID Act of 2005 (division B of Public Law 109–13) to establish employment authorization or identity in order to be hired by an employer; and

(2) no Federal funds may be provided under this Act to assist States to meet such standards to establish employment authorization or identity in order to be hired by an employer.

TITLE ___—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. __01. REPEAL OF TITLE III.

Title III of this Act is repealed and the amendments made by title III of this Act are null and void.

SEC. __02. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

"SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

"(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for an employer—

"(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard for the fact that, the alien is an unauthorized alien with respect to such employment; or

"(B) to hire, or to recruit or refer for a fee, an individual for employment in the United States, unless such employer meets the requirements of subsections (c) and (d).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after hiring an alien for employ-

ment, to continue to employ the alien in the United States knowing, or with reckless disregard for the fact that, the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) USE OF LABOR THROUGH CONTRACT.—

"(A) IN GENERAL.—It is unlawful for an employer to obtain, or continue to obtain, the labor of an alien through a contract, subcontract, or exchange knowing that the alien is, or has become, an unauthorized alien with respect to such employment

"(B) REBUTTABLE PRESUMPTION.—There shall be a rebuttable presumption that the employer has violated subparagraph (A) if the employer fails to terminate such contract or subcontract upon written or electronic notice from the Secretary that such alien is, or has become, an unauthorized alien with respect to such employment.

"(C) NOTIFICATION.—The Secretary shall establish procedures to permit the notification of employers under subparagraph (B).

"(4) DEFENSE.—

"(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that

the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

"(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

"(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

"(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the

employer shall certify under penalty of perjury that—

"(A) the employer is in compliance with the requirements of subsections (c) and (d); or

"(B) that the employer has instituted a program to come into compliance with such requirements.

"(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

"(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification under paragraph (1) and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

"(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States, shall verify that the individual is eligible for such employment by meeting the following requirements:

"(1) ATTESTATION BY EMPLOYER.—

"(A) REQUIREMENTS.—

"(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining a document described in subparagraph (B).

"(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

"(iii) STANDARDS FOR EXAMINATION.—The employer has complied with the requirement of this paragraph with respect to examination of documentation if a reasonable person would conclude that the document examined is genuine and relates to the individual whose identity and eligibility for employment in the United States is being verified. If the individual provides a document sufficient to meet the requirements of this paragraph, nothing in this paragraph shall be construed as requiring an employer to solicit any other document

or as requiring the individual to produce any other document.

"(B) IDENTIFICATION DOCUMENTS.—A document described in this subparagraph is—

"(i) in the case of an individual who is a national of the United States—

"(I) a United States passport, or passport card issued pursuant to the Secretary of State's authority under the first section of the Act of July 3, 1926 (44 Stat. 887, Chapter 772; 22 U.S.C. 211a); or

"(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that—

"(aa) contains a photograph of the individual and other identifying information, including the individual's name, date of birth, gender, and address; and

"(bb) contains security features to make the license or card

resistant to tampering, counterfeiting, and fraudulent use;

"(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary that meets the requirements of items (aa) and (bb) of clause (i)(II);

"(iii) in the case of an alien who is authorized to be employed in the United States, an employment authorization card, as specified by the Secretary that meets the requirements of such items (aa) and (bb); or

"(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that meets the requirements of such items (aa) and (bb).

"(C) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

"(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being

used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

"(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

"(2) ATTESTATION OF EMPLOYEE.—

"(A) REQUIREMENTS.—

"(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form described in paragraph (1)(A)(i), that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized to be hired, or to be recruited or referred for a fee, in the United States.

"(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

"(B) PENALTIES.—An individual who falsely represents that the individual is eligible

for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

"(3) RETENTION OF ATTESTATION.—The employer shall retain a paper, microfiche, microfilm, or electronic version of the attestations made under paragraphs (1) and (2) and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

"(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

"(B) in the case of the hiring of an individual the later of—

"(i) 5 years after the date of such hiring;

"(ii) 1 year after the date the individual's employment is terminated; or

"(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

"(4) DOCUMENT RETENTION AND RECORD-KEEPING REQUIREMENTS.—

"(A) RETENTION OF DOCUMENTS.—Notwithstanding any other provision of law, an employer shall retain, for the applicable period described in paragraph (3), the following documents:

"(i) IN GENERAL.—The employer shall copy all documents presented by an individual described in paragraph (1)(B) and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents.

"(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence

written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.

"(B) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) or (ii) of subparagraph (A) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

"(5) PENALTIES.—An employer that fails to comply with the recordkeeping requirements of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

"(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

"(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

"(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employ-

ment Verification System (referred to in this subsection as the 'System') to determine whether—

"(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary, the Secretary of State, the Commissioner of Social Security, or the official of a State responsible for issuing drivers' licenses and identity cards; and

"(B) such individual is eligible for employment in the United States.

"(2) REQUIREMENT FOR PARTICIPATION.—

"(A) NEW EMPLOYEES.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is not later than 18 months after the date of enactment of this section.

"(B) OTHER EMPLOYEES.—Not later than 3 years after such date of enactment, the Secretary shall require all employers to verify through the System the identity and employment eligibility of any individual who—

"(i) the Secretary has reason to believe is unlawfully employed based on the information received under section

6103(l)(21) of the Internal Revenue Code of 1986; and

"(ii) has not been previously verified through the System.

"(3) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (2), the Secretary has the authority—

"(A) to permit any employer that is not required to participate in the System under paragraph (2) to participate in the System on a voluntary basis; and

"(B) to require any employer or class of employers to participate on a priority basis in the System with respect to individuals employed as of, or hired after, the date of enactment of this section—

"(i) if the Secretary designates such employer or class of employers as a critical employer based on an assessment of homeland security or national security needs; or

"(ii) if the Secretary has reasonable cause to believe that the employer has engaged in material violations of paragraph (1), (2), or (3) of subsection (a).

"(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (2) or (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(iv).

"(5) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under this subsection.

"(6) ADDITIONAL GUIDANCE.—A registered employer shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

"(A) the attestation requirement in subsection (c); and

"(B) the employment eligibility verification requirements in this subsection.

"(7) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in

the System and fails to comply with the requirements of the System with respect to an employee—

"(A) such failure shall be treated as a violation of subsection (a)(1)(B); and

"(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A), however, such presumption may not apply to a prosecution under subsection (f)(1).

"(8) DESIGN AND OPERATION OF SYSTEM.—

"(A) IN GENERAL.—The Secretary shall, through the System—

"(i) respond to each inquiry made by a registered employer through the Internet or other electronic media, or over a toll-free telephone line regarding an individual's identity and eligibility for employment in the United States; and

"(ii) maintain a record of each such inquiry and the information provided in response to such inquiry.

"(B) INITIAL INQUIRY.—

"(i) INFORMATION REQUIRED.—A registered employer shall with respect to hiring or recruiting or referring for a fee any individual for employment in the

United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

"(I) the individual's name and date of birth;

"(II) the individual's social security account number;

"(III) the identification number contained on the document presented by the individual pursuant to subsection (c)(1)(B); and

"(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), such alien identification or authorization number that the Secretary shall require.

"(ii) SUBMISSION TO SYSTEM.—A registered employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

"(I) not earlier than the date of hire and no later than the first day of

employment, or recruiting or referring for a fee, of the individual (as the case may be); or

"(II) in the case of an employee hired before such employer was required to participate in the system, at such time as the Secretary shall specify.

"(C) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

"(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

"(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, and after a secondary manual verification has been conducted, a tentative nonconfirmation notice, including the appropriate codes on such tentative nonconfirmation notice.

"(D) CONFIRMATION OR NONCONFIRMATION.—

"(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under subparagraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

"(ii) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under subparagraph (C)(ii) for an individual, the employer shall inform such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

"(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer

shall record on the form described in subsection (c)(1)(A)(i), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

''(iv) CONTEST.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in subparagraph (E)(ii) not later than 10 days after receiving the notice from the individual's employer.

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii) or a final confirmation notice or final nonconfirmation notice is issued through the System.

"(vi) EFFECTIVE PERIOD OF FINAL NOTICE.—A final confirmation notice issued under this paragraph for an individual shall remain in effect—

"(I) during any continuous period of employment of such individual by such employer, unless the Secretary determines the final confirmation was the result of error or fraud; or

"(II) in the case of an alien authorized to be employed in the United States for a temporary period, during such period.

"(vii) PROHIBITION ON TERMINATION.—An employer may not terminate such employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (iii) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall prohibit the termination of such employment for any reason other than such tentative nonconfirmation.

"(viii) RECORDING OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is provided through the System to indicate a final confirmation notice or final nonconfirmation notice.

"(ix) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall immediately terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

"(E) RESPONSIBILITIES OF THE SECRETARY.—

"(i) IN GENERAL.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by this subsection—

"(I) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided; and

"(II) a determination of whether the individual is authorized to be employed in the United States.

"(ii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing em-

ployment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

"(iii) INFORMATION TO EMPLOYEE.—The Secretary shall develop a written form for employers to provide to individuals who receive a tentative or final nonconfirmation notice. Such form shall be made available in a language other than English, as necessary and reasonable, and shall include—

"(I) information about the reason for such notice;

"(II) the right to contest such notice;

"(III) contact information for the appropriate agency and instructions for initiating such contest; and

"(IV) a 24-hour toll-free telephone number to respond to inquiries related to such notice.

"(iv) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate train-

ing materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

"(F) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

"(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—The Secretary of State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(I) and transmit to the Secretary the related photographic image or other identifying information.

"(H) RESPONSIBILITIES OF A STATE.—The official responsible for issuing drivers' licenses and identity cards for a State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(II) and transmit to the Secretary the related photographic image or other identifying information.

"(9) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

"(10) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 30 days after the date of such termination, file an appeal of such notice.

"(B) PROCEDURES.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subparagraph (A) and to make final determinations on such appeals.

"(C) REVIEW FOR ERRORS.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual's eligibility to work in the United States, the administrative review process shall require the Secretary to determine whether the final nonconfirmation notice issued for the individual was the result of—

"(i) the decision rules, processes, or procedures utilized by the System;

"(ii) a natural disaster, or other event beyond the control of the government;

"(iii) acts or omissions of an employee or official operating or responsible for the System;

"(iv) acts or omissions of the individual's employer;

"(v) acts or omissions of the individual; or

"(vi) any other reason.

"(D) COMPENSATION FOR ERROR.—

"(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was caused by a negligent, reckless, willful, or malicious act of the government, and was not due to an act or omission of the individual, the Secretary, subject to the availability of appropriations made in accordance with paragraph (12)(B), shall compensate the individual for lost wages.

"(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under this paragraph and ending on the earlier of—

"(I) the date which is 180 days thereafter; or

"(II) the day after the date the individual receives a confirmation described in subparagraph (C).

"(11) JUDICIAL REVIEW.—

"(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 30 days after the date of such decision, or such further time as the Secretary may allow.

"(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

"(C) ANSWER.—As part of the Secretary's answer to a complaint for such judicial review, the Secretary shall file a certified copy of the administrative record compiled during the administrative review under paragraph (10), including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of that administrative review, with or without remanding the cause for a rehearing.

"(D) COMPENSATION FOR ERROR.—

"(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under

paragraph (10), the court, subject to the availability of appropriations made in accordance with paragraph (12)(B), shall compensate the individual for lost wages.

"(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under paragraph (10) and ending on the earlier of—

"(I) the date which is 180 days thereafter; or

"(II) the day after the date the individual receives a reversal described in clause (i).

"(12) COMPENSATION FOR LOSS OF EMPLOYMENT.—For purposes of paragraphs (10) and (11)—

"(A) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in

which the individual was not present in, or was ineligible for employment in, the United States.

"(B) AUTHORIZATION OF APPROPRIATION OF FUNDS.—There is authorized to be appropriated such sums as may be necessary to provide the compensation or reimbursement provided for under such paragraphs. An appropriation made pursuant to this authorization shall be in addition to any funds otherwise authorized to be appropriated to the Department of Homeland Security.

"(13) LIMITATION ON COLLECTION AND USE OF DATA.—

"(A) LIMITATION ON COLLECTION OF DATA.—

"(i) IN GENERAL.—The Secretary shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

"(I) information necessary to register employers under paragraph (5);

"(II) information necessary to initiate and respond to inquiries or contests under paragraph (8);

"(III) information necessary to establish and enforce compliance with paragraphs (5) and (8);

"(IV) information necessary to detect and prevent employment-related identity fraud; and

"(V) such other information the Secretary determines is necessary, subject to a 180-day notice and comment period in the Federal Register.

"(ii) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined $1,000 for each violation.

"(B) LIMITATION ON USE OF DATA.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

"(i) for the purpose of committing identity fraud, or assisting another person

in committing identity fraud, as defined in section 1028 of title 18, United States Code;

"(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

"(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(C) EXCEPTIONS.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

"(14) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and

other operational and technical aspects to improve the efficiency, accuracy, and security of the System. The Secretary shall minimize the collection and storage of paper documents and maximize the use of electronic records, including electronic signatures.

"(15) ANNUAL GAO STUDY AND REPORT.—

"(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

"(B) PURPOSE.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

"(C) REPORT.—Not later than the date that is 24 months after the date of the enactment of this section, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

"(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in

paragraph (8), including a separate assessment of such rate for nationals and aliens.

"(ii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

"(iii) An assessment of the effects of the System on the employment of unauthorized aliens.

"(iv) An assessment of the effects of the System, including the effects of tentative confirmations on unfair immigration-related employment practices, and employment discrimination based on national origin or citizenship status.

"(v) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

"(e) COMPLIANCE.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

"(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

"(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

"(2) AUTHORITY IN INVESTIGATIONS.—

"(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

"(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

"(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

"(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may

request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

"(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

"(3) COMPLIANCE PROCEDURES.—

"(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

"(i) describe the violation;

"(ii) specify the laws and regulations allegedly violated;

"(iii) specify the amount of fines or other penalties to be imposed;

"(iv) disclose the material facts which establish the alleged violation; and

"(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

"(B) REMISSION OR MITIGATION OF PENALTIES.—

"(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or

agreement to participate in, the System, if not otherwise required.

"(ii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or of any other requirements of this section.

"(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer, the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

"(4) CIVIL PENALTIES.—

"(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1), (2), or (3) of subsection (a) shall pay civil penalties as follows:

"(i) Pay a civil penalty of $5,000 for each unauthorized alien with respect to each such violation.

"(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $10,000 for each unauthorized alien with respect to each such violation.

"(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $25,000 for each unauthorized alien with respect to each such violation.

"(iv) If the employer has previously been fined more than 2 times under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $75,000 for each unauthorized alien with respect to each such violation.

"(v) An employer who fails to comply with a written final determination under paragraph (3)(C) shall be fined $75,000 for each violation, in addition to any fines or other penalties imposed by such determination.

"(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

"(i) Pay a civil penalty of $1,000 for each such violation.

"(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $2,000 for each such violation.

"(iii) If the employer has previously been fined more than 1 time under this subparagraph, pay a civil penalty of $5,000 for each such violation.

"(iv) If the employer has previously been fined more than 2 times under this subparagraph, pay a civil penalty of $15,000 for each such violation.

"(v) An employer who fails to comply with a written final determination under paragraph (3) shall be fined $15,000 for each violation, in addition to any fines or other penalties imposed by such determination.

"(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

"(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 30 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

"(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination

issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 31 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

"(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

"(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $75,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

"(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General

may bring a civil action in the appropriate district court of the United States requesting a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) ADJUSTMENT FOR INFLATION.—All penalties in this section shall be increased every 4 years beginning January 2011 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referral of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referral of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to

have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

"(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

"(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of a Federal contract, grant, or cooperative agreement for a period of not more than 2 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from

Federal Procurement and Nonprocurement Programs for a period of the debarment.

"(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

"(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

"(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be subject to debarment from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations.

"(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies or departments holding a contract, grant,

or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years.

"(C) WAIVER.—After consideration of the views of all agencies or departments that hold a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of nor more than 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

"(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that

could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(4) DETERMINATION OF REPEAT VIOLATORS.—Inadvertent violations of recordkeeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

''(j) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement (other than aliens lawfully admitted for permanent residence).

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions upon those who hire, or recruit or refer for a fee, unauthorized aliens for employment; or

"(B) requiring the use of the System for any unauthorized purpose, or any authorized purpose prior to the time such use is required or permitted by Federal law.

"(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the general fund of the Treasury.

"(l) DEFINITIONS.—In this section:

"(1) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

"(2) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

"(A) an alien lawfully admitted for permanent residence; or

"(B) authorized to be so employed by this Act or by the Secretary under any other provision of law.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Im-

migration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act

of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking "274A(h)(3)" and inserting "274A".

(2) DOCUMENT REQUIREMENTS.—Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking "274A(b)" and inserting "274A(c) and (d)"; and

(B) in subsection (g)(2)(B)(ii), by striking "274A(b)(5)" and inserting "274A(c)".

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) EEVS DETERMINATIONS.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following:

"(I)(i) The Commissioner of Social Security shall, subject to the provisions of section __01(f)(2) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

"(I) a determination of whether the name, date of birth, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner;

"(II) a determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

"(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

"(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

"(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

"(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

"(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall—

"(i) to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary of Homeland Security;

"(ii) in all cases, record, verify, and maintain an electronic record of the alien identification or authorization number issued by the Secretary and utilized by the Commissioner in assigning such social security account number; and

"(iii) upon the issuance of a social security account number, transmit such number to the Secretary of Homeland Security for inclusion in such alien's record maintained by the Secretary.".

(2) AGREEMENT.—Section 205(c)(2)(C)(i) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(i)) is amended by adding at the end the following: "Any State that utilizes a social security account number for such purpose shall enter into an agreement with the Commissioner to allow the Commissioner to verify the name, date of birth, and the identity number issued by the official the State responsible for issuing drivers' licenses and identity cards. Such agreement shall be under the same terms and conditions as agreements entered into by the Commissioner under paragraph 205(r)(8).".

(3) DISCLOSURE OF DEATH INFORMATION.—Section 205(r) of the Social Security Act (42 U.S.C. 405(r)) is amended by adding at the end the following:

"(9) Notwithstanding this section or any agreement entered into thereunder, the Commissioner of Social Security is authorized to disclose death information to the Secretary of Homeland Security to the extent necessary to carry out the responsibilities re-

quired under subsection (c)(2) and section 6103(l)(21) of the Internal Revenue Code of 1986.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY THE SOCIAL SECURITY ADMINISTRATION TO THE DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—Upon written request by the Secretary of Homeland Security, the Commissioner of Social Security or the Secretary shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO MATCH NOTICES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is specified in subparagraph (F) which contains—

"(I) 1 (or any greater number the Secretary shall request) name and taxpayer identifying number of any employee (within the meaning of section 6051) or any recipient (within the meaning of section 6041(a)) that could not be matched to the records maintained by the Commissioner of Social Security, or

"(II) 2 (or any greater number the Secretary shall request) names of employees (within the meaning of such section) or recipients (within the meaning of section 6041(a)) with the same taxpayer identifying number,

and the taxpayer identity of each such employee or recipient.

"(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE TAXPAYER IDENTIFYING INFORMATION OF EMPLOYEES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is

specified in subparagraph (F) which contains the taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051) or a recipient (within the meaning of section 6041(a))—

"(I) who is under the age of 14 (or any lesser age the Secretary shall request), according to the records maintained by the Commissioner of Social Security,

"(II) whose date of death, according to the records so maintained, occurred in a calendar year preceding the calendar year for which the information return was filed,

"(III) whose taxpayer identifying number is contained in more than one (or any greater number the Secretary shall request) information return filed in such calendar year,

"(IV) who is not authorized to work in the United States, according to the records so maintained, or

"(V) who is not a national of the United States, according to the records so maintained,

and the taxpayer identity of each such employee or recipient.

"(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) which the Commissioner of Social Security or the Secretary, as the case may be, has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

"(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—The taxpayer identity of all employees (within the

meaning of section 6051) hired and recipients (within the meaning of section 6041(a)) retained after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—The taxpayer identity of all employees (within the meaning of section 6051) and recipients (within the meaning of section 6041(a)) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—The taxpayer identity of each person participating in the System and the taxpayer identity of all employees (within the meaning of section 6051) of such person hired and all recipients (within the meaning of section 6041(a)) of such person retained during the period beginning with the later of—

"(I) the date such person begins to participate in the System, or

"(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

"(B) RESTRICTION ON DISCLOSURE.—The taxpayer identities disclosed under subparagraph (A) may be used by officers, employees, and contractors of the Department of Homeland Security only for purposes of, and to the extent necessary in—

"(i) preventing identity fraud;

"(ii) preventing unauthorized aliens from obtaining employment in the United States;

"(iii) establishing and enforcing employer participation in the System;

"(iv) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act; and

"(v) the civil operation of the Alien Terrorist Removal Court.

"(C) REIMBURSEMENT.—The Commissioner of Social Security and the Secretary shall prescribe a reasonable fee schedule based on the additional costs directly incurred for furnishing taxpayer identities under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

"(D) INFORMATION RETURNS UNDER SECTION 6041.—For purposes of this paragraph, any reference to information returns required by reason of section 6041(a) shall only be a reference to such information returns relating to payments for labor.

"(E) FORM OF DISCLOSURE.—The taxpayer identities to be disclosed under paragraph (A) shall be provided in a form agreed upon by the Commissioner of Social Security, the Secretary, and the Secretary of Homeland Security.

"(F) TERMINATION.—This paragraph shall not apply to any request made after the date which is 5 years after the date of the enactment of this paragraph.".

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—Section 6103(p) of such Code is amended by adding at the end the following:

"(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an on-site review every 3 years (midpoint review in the case of contracts or agreements of less than 3 years in duration) of each contractor to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary, for the most recent annual period, that such contractor is in compliance with all such requirements, by submitting the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking "or (20)" and inserting "(20), or (21)".

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: "The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).".

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking "or (17)" both places it appears and inserting "(17), or (21)"; and

(ii) by striking "or (20)" each place it appears and inserting "(20), or (21)".

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent funds are appropriated, in advance, to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2008.

SEC. __03. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of United States Immigration and Customs Enforcement personnel during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary shall ensure that not less than 25 percent of all the hours expended by United States Immigration and Customs Enforcement personnel is used to enforce compliance with

sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

SEC. __04. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. __05. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''; and

(B) in subparagraph (B), by striking "in the case of a protected individual (as defined in paragraph (3))," ; and

(2) by striking paragraph (3) and inserting the following:

"(3) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

"(A) IN GENERAL.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

"(i) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

"(ii) to use the verification system for screening of an applicant prior to an offer of employment;

"(iii) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first day of employment, unless a waiver is provided by the Secretary of Homeland Security for good cause, or for the

reverification of an employee after the employee has satisfied the process described in section 274A(d); or

"(iv) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).

"(B) PREEMPLOYMENT SCREENING AND BACKGROUND CHECK.—Nothing in subparagraph (A) shall be construed to preclude a pre-employment screening or background check that is required or permitted under any other provision of law.".

(b) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)) is amended in subparagraph (B)(iv)—

(1) in subclause (I), by striking "$250 and not more than $2,000" and inserting "$1,000 and not more than $4,000";

(2) in subclause (II), by striking "$2,000 and not more than $5,000" and inserting "$4,000 and not more than $10,000";

(3) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(4) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(c) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2008 through 2010'' before the period at the end.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SEC. ____. DISTRICT JUDGES FOR THE DISTRICT COURTS IN BORDER STATES.

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

(1) 4 additional district judges for the district of Arizona;

(2) 4 additional district judges for the central district of California;

(3) 4 additional district judges for the eastern of California;

(4) 2 additional district judges for the northern district of California;

(5) 4 additional district judges for the middle district of Florida;

(6) 2 additional district judges for the southern district of Florida;

(7) 1 additional district judge for the district of Minnesota;

(8) 1 additional district judge for the district of New Mexico;

(9) 3 additional district judges for the eastern district of New York;

(10) 1 additional district judge for the western district of New York;

(11) 1 additional district judge for the eastern district of Texas;

(12) 2 additional district judges for the southern district of Texas;

(13) 1 additional district judge for the western district of Texas; and

(14) 1 additional district judge for the western district of Washington.

(b) TEMPORARY JUDGESHIPS.—

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

(A) 1 additional district judge for the district of Arizona;

(B) 1 additional district judge for the central district of California;

(C) 1 additional district judge for the northern district of California;

(D) 1 additional district judge for the middle district of Florida;

(E) 1 additional district judge for the southern district of Florida;

(F) 1 additional district judge for the district of Idaho; and

(G) 1 additional district judge for the district of New Mexico.

(2) VACANCIES.—For each of the judicial districts named in this subsection, the first vacancy

arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this subsection shall not be filled.

(c) EXISTING JUDGESHIPS.—The existing judgeships for the district of Arizona and the district of New Mexico authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107–273, 116 Stat. 1758), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (c), such table is amended to read as follows:

"Districts	**Judges**
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	17
Arkansas:	
Eastern	5
Western	3
California:	
Northern	16

"Districts	Judges
Eastern	10
Central	31
Southern	13
Colorado	7
Connecticut	8
Delaware	4
District of Columbia	15
Florida:	
Northern	4
Middle	19
Southern	19
Georgia:	
Northern	11
Middle	4
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	4
Southern	4
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	5
Western	4
Eastern and Western	1
Louisiana:	
Eastern	12
Middle	3
Western	7
Maine	3
Maryland	10
Massachusetts	13
Michigan:	
Eastern	15
Western	4
Minnesota	8
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	7
New Hampshire	3

"Districts	Judges
New Jersey	17
New Mexico	8
New York:	
Northern	5
Southern	28
Eastern	18
Western	5
North Carolina:	
Eastern	4
Middle	4
Western	4
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	6
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	6
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	10
South Dakota	3
Tennessee:	
Eastern	5
Middle	4
Western	5
Texas:	
Northern	12
Southern	21
Eastern	8
Western	14
Utah	5
Vermont	2
Virginia:	
Eastern	11
Western	4
Washington:	
Eastern	4
Western	8
West Virginia:	
Northern	3
Southern	5
Wisconsin:	
Eastern	5
Western	2
Wyoming	3.".

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to provide appropriate space and facilities for the judicial positions created under this section.

(f) FUNDING.—Notwithstanding any other provision of law, the Attorney General shall transfer, for each of the fiscal years 2008 through 2017, $8,000,000 from the Department of Justice Assets Forfeiture Fund to the general fund of the Treasury to carry out this section.

SEC. ____. TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.

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

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

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

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

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

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

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

"(ii) A statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law.

"(iii) A statement describing whether and how the agreement changes provisions of an agreement previously negotiated.

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

"(v) An estimate by the Chief Actuary of the Social Security Administration, working in consultation with the Comptroller General of the United States, of the number of individuals who may become eligible for any benefits under this title or who may otherwise be affected by the agreement.

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

"(vii) An assessment of the ability of such country to track and monitor recipients of benefits under such agreement.

"(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to Congress in the transmittal to Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by Congress under this section and shall have no force and effect under United States law.

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

and the third blank therein being filled with the date of the transmittal of the agreement to Congress.

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

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall

be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(b) ADDITIONAL REPORTS AND EVALUATIONS.—Section 233 of the Social Security Act (42 U.S.C. 433) is amended by adding at the end the following new subsections:

''(f) BIENNIAL SSA REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—

''(1) REPORT.—For any totalization agreement transmitted to Congress on or after January 1, 2007, the Commissioner of Social Security shall submit a report to Congress and the Comptroller General that—

''(A) compares the estimates contained in the report submitted to Congress under clauses (i) and (v) of subsection (e)(2)(A) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on social security system receipts and disbursements; and

"(B) contains recommendations for adjusting the methods used to make the estimates.

"(2) DATES FOR SUBMISSION.—The report required under this subsection shall be provided not later than 2 years after the effective date of the totalization agreement that is the subject of the report and biennially thereafter.

"(g) GAO EVALUATION AND REPORT.—

"(1) EVALUATION OF INITIAL REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—With respect to each initial report regarding a totalization agreement submitted under subsection (f), the Comptroller General of the United States shall conduct an evaluation of the report that includes—

"(A) an evaluation of the procedures used for making the estimates required by subsection (e)(2)(A);

"(B) an evaluation of the procedures used for determining the actual number of individuals affected by the agreement and the effects of the totalization agreement on receipts and disbursements under the social security system; and

"(C) such recommendations as the Comptroller General determines appropriate.

"(2) REPORT.—Not later than 1 year after the date of submission of an initial report regarding a totalization agreement under subsection (f), the Comptroller General shall submit to Congress a report setting forth the results of the evaluation conducted under paragraph (1).

"(3) DATA COLLECTION.—The Commissioner of Social Security shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the evaluation required by paragraph (1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act that are transmitted to Congress on or after January 1, 2007.

SEC. ____. IMMIGRATION ENFORCEMENT IMPROVEMENTS.

(a) VISA EXIT TRACKING SYSTEM.—In addition to the border security and other measures described in paragraphs (1) through (6) of section 1(a), the certification required under section 1(a) shall include a statement that the Secretary of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act at designated ports of entry or designated United States consulates abroad.

(b) PROMPT REMOVAL PROCEEDINGS.—Subject to the availability of appropriations, the Secretary of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien admitted into the United States under subparagraph (B) (admitted under the terms and conditions of section 214(s)), (H)(ii) (as amended by title IV), or (Y) of section 101(a)(15) of the Immigration and Nationality Act, and who exceeds the alien's period of authorized admission or otherwise violates any terms of the alien's nonimmigrant status. In conducting such removal proceedings, the Secretary shall give priority to aliens who may pose a threat to the national security, and those convicted of criminal offenses.

(c) REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than 90 days before the Secretary of Homeland Security submits a

written certification under section 1(a), the Secretary shall submit a report to the governors of the States that share a land border with Mexico that—

(A) describes the progress made in establishing, funding, and implementing the border security and other measures described in subsection (a) and section 1(a); and

(B) indicates the date on which the Secretary intends to submit a written certification under subsection (a) and section 1(a).

(2) GOVERNOR'S RESPONSE.—Not later than 60 days after receiving a report from the Secretary under paragraph (1), a governor may submit a report to Congress that—

(A) analyzes the accuracy of the information received by the Secretary;

(B) indicates whether the governor agrees with the Secretary that the border security and other measures described in subsection (a) and section 1(a) will be established, funded, and operational before the Secretary's certification is submitted; and

(C) makes recommendations regarding new border enforcement policies, strategies, and additional programs needed to secure the border.

(3) CONSULTATION.—The Secretary shall consult with any governor who submits a report under subsection (2) before submitting written certification under section 1(a).

(d) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(1) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—In each of the fiscal years 2008 through 2012, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in United States Immigration and Customs Enforcement—

(A) to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States;

(B) to investigate immigration fraud; and

(C) to enforce workplace violations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

(e) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES.—Section 215 of the Immigration and Nationality Act, as amended by section 111(a), is further amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (h), respectively; and

(2) by striking subsection (c), as added by section 111(a)(3), and inserting the following:

"(c) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES.—The Secretary of Homeland Security shall require an alien entering and departing the United States to provide biometric data and other information relating to the alien's immigration status.

"(d) COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall require an alien who was admitted to the United States under subparagraph (B) (under the terms and conditions of section 214(s)), (H)(ii),

or (Y) of section 101(a)(15) to record the alien's departure at a designated port of entry or at a designated United States consulate abroad.

"(2) FAILURE TO RECORD DEPARTURE.—If an alien does not record the alien's departure as required under paragraph (1), the Secretary, not later than 48 hours after the expiration of the alien's period of authorized admission, shall enter the name of the alien into a database of the Department of Homeland Security as having overstayed the alien's period of authorized admission.

"(3) INFORMATION SHARING WITH LAW ENFORCEMENT AGENCIES.—Consistent with the authority of State and local police to assist the Federal Government in the enforcement of Federal immigration laws, the information in the database described in paragraph (2) shall be made available to State and local law enforcement agencies pursuant to the provisions of section 240D.".

(f) EFFECTIVE DATE OF AGGRAVATED FELONY SECTION.—

(1) IN GENERAL.—Notwithstanding section 203(b), and except as provided under paragraph (2), the amendments made by section 203(a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any conviction that occurred on or after the date of the enactment of this Act.

(2) APPLICATION WITH RESPECT TO CONVICTIONS FOR SEXUAL ABUSE OF A MINOR.—Notwithstanding paragraph (1), the amendment made by section 203(a)(2) related to the sexual abuse of a minor shall apply to any conviction for sexual abuse of a minor that occurred before, on, or after the date of the enactment of this Act.

(3) APPLICATION OF IIRAIRA AMENDMENTS.—In accordance with section 203(b)(2) of this Act, the amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 11 Stat. 3009–627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

(g) INCREASED CRIMINAL PENALTIES RELATED TO DRUNK DRIVING.—

(1) INADMISSIBILITY.—Section 212(a)(2)(K) of the Immigration and Nationality Act, as added by

section 205(a)(1), is amended by inserting ''or 2 convictions for driving under the influence under Federal or State law,'' after ''imprisonment,''.

(2) DEPORTABILITY.—Section 237(a)(2)(F) of the Immigration and Nationality Act, as added by section 205(a)(2), is amended by inserting ''or 2 convictions for driving under the influence under Federal or State law,'' after ''imprisonment,''.

(h) DEFINITION OF CRIMINAL GANG.—Section 101(a)(52)(B)(iv) of the Immigration and Nationality Act, as added by section 204(a), is amended by striking ''which is punishable by a sentence of imprisonment of 5 years or more,''.

(i) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2)(F) of the Immigration and Nationality Act, as added by section 204(b), is amended to read as follows:

''(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

''(i) IN GENERAL.—An alien is inadmissible if—

''(I) a consular officer, the Secretary of Homeland Security, or the Attorney General knows, or has rea-

son to believe, that the alien is a member of a criminal gang; or

"(II) a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe that the alien has participated in the activities of a criminal gang, knowing or having reason to know that such activities would promote, further, aid, or support the illegal activity of the criminal gang.

"(ii) WAIVER.—The Secretary of Homeland Security or the Attorney General may, in the discretion of the Secretary or the Attorney General, as appropriate, waive an alien's inadmissibility under clause (i).".

(2) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act, as added by section 204(c), is amended to read as follows:

"(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

"(i) IN GENERAL.—An alien is deportable if—

"(I) there is a preponderance of the evidence to believe the alien is a member of a criminal gang; or

"(II) there is reasonable ground to believe the alien has participated in the activities of a criminal gang, knowing or having reason to know that such activities would promote, further, aid, or support the illegal activity of the criminal gang.

"(ii) WAIVER.—The Secretary of Homeland Security or the Attorney General may, in the discretion of the Secretary or the Attorney General, as appropriate, waive an alien's deportability under clause (i).".

(j) TEMPORARY PROTECTED STATUS.—Section 244(c)(2)(B) of the Immigration and Nationality Act, as amended by section 204(d), is further amended—

(1) in clause (ii), by striking "or" at the end and inserting a semicolon;

(2) in clause (iii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iv) the alien is a member of a criminal gang.".

(k) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, the amendments made by subsections (i) and (j) of this section and subsections (b), (c), and (d) of section 204 shall apply to—

(1) all aliens required to establish admissibility on or after such date of enactment; and

(2) all aliens in removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date of enactment.

(l) DETENTION PENDING DEPORTATION OF ALIENS WHO OVERSTAY.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226)is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) DETENTION OF ALIENS WHO EXCEED THE ALIEN'S PERIOD OF AUTHORIZED ADMISSION.—

"(1) CUSTODY.—An alien shall be arrested and detained by the Secretary of Homeland Security pending a decision on whether the alien is to be removed from the United States for willfully exceed-

ing, by 60 days or more, the period of the alien's authorized admission or parole into the United States.

"(2) WAIVER.—The Secretary of Homeland Security may waive the application of paragraph (1) if the Secretary determines that the alien exceeded the alien's period of authorized admission or parole as a result of exceptional circumstances beyond the control of the alien.".

SEC. ____. WORKSITE ENFORCEMENT.

(a) NOTIFICATION OF EXPIRATION OF ADMISSION.—Notwithstanding any other provision of this Act, an employer or educational institution shall notify an alien in writing of the expiration of the alien's period of authorized admission not later than 14 days before such eligibility expires.

(b) UNLAWFUL EMPLOYMENT OF ALIENS.—

(1) IN GENERAL.—Section 274A(a) of the Immigration and Nationality Act, as amended by section 302(a), is further amended—

(A) in paragraph (3), by striking subparagraphs (B) and (C) and inserting the following:

"(B) The Secretary may establish procedures by which an employer may obtain confirmation from the Secretary that the con-

tractor or subcontractor has registered with the EEVS and is utilizing the EEVS.

"(C) The Secretary may establish such other requirements for employers using contractors or subcontractors as are necessary to prevent knowing violations of this paragraph after rulemaking pursuant to section 553 of title 5, United States Code. The Secretary may issue widely disseminated guidelines to clarify and supplement the regulations issued hereunder and disseminate the guidelines broadly in coordination with the Private Sector Office of the Department of Homeland Security."; and

(B) by striking paragraph (6) and inserting the following:

"(6) A rebuttable presumption is created that an employer has acted with knowledge or reckless disregard if the employer is shown by clear and convincing evidence to have materially failed to comply with written standards, procedures or instructions issued by the Secretary. Standards, procedures or instructions issued by the Secretary shall be objective and verifiable.".

(2) DEFINITIONS.—Section 274A(b) of the Immigration and Nationality Act, as amended by sec-

tion 302(a), is further amended by striking paragraph (2) and inserting the following:

"(2) DEFINITION OF EMPLOYER.—In this section, the term 'employer' means any person or entity hiring, recruiting, or referring an individual for a fee for employment in the United States. Franchised businesses that operate independently do not constitute a single employer solely on the basis of sharing a common brand.

"(3) DEFINITION OF CRITICAL INFRASTRUCTURE.—In this section, the term 'critical infrastructure' means agencies and departments of the United States, States, their suppliers or contractors, and any other employer whose employees have access as part of their jobs to a government building, military base, nuclear energy site, weapon site, airport, or seaport.".

(3) MANAGEMENT OF EEVS.—Section 274A(d)(9)(E)(v) of the Immigration and Nationality Act, as amended by section 302(a), is further amended by adding at the end the following: "The Secretary shall further study the feasibility of providing other alternatives for employers that do not have Internet access.".

(4) REPEAT VIOLATOR.—Section 274A(h)(1) of the Immigration and Nationality Act, as amended by section 302(a), is amended by adding at the end the following: ''The Secretary shall define 'repeat violator', as used in this subsection, in a rulemaking that complies with the requirements of section 553 of title 5, United States Code.''.

(5) PREEMPTION.—Section 274A(i) of the Immigration and Nationality Act, as amended by section 302(a), is amended by striking paragraph (2) and inserting the following:

''(2) PREEMPTION.—The provisions of this section shall preempt any State or local law that requires the use of the EEVS in a fashion that—

''(A) conflicts with Federal policies, procedures or timetables;

''(B) requires employers to verify whether or not an individual is authorized to work in the United States; or

''(C) imposes civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding the matter preceding subparagraph (A) of sec-

tion 310(a)(1), there are authorized to be appropriated to the Secretary of Homeland Security, in each of the 2 fiscal years beginning after the date of the enactment of this Act, such sums as may be necessary to annually hire not less than 2,500 personnel of the Department of Homeland Security, who are to be assigned exclusively or principally to an office or offices dedicated to monitoring and enforcing compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c), including compliance with the requirements of the EEVS. These personnel shall perform the compliance and monitoring activities described in subparagraphs (A) through (O) of section 310(a)(1).

SEC. ____. TEMPORARY WORKER PROGRAM.

(a) H–1B STREAMLINING AND SIMPLIFICATION.—Section 214(g) of the Immigration and Nationality Act, as amended by this Act, is further amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

"(i) 115,000 in fiscal year 2008;

"(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

"(iii) 180,000 for any fiscal year;"; and

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking "The annual numerical limitations described in clause (i) shall not exceed" and inserting "Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 101(a)(15)(H)(i)(b) in the following quantities:"; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by title IV, is further amended—

(A) by striking paragraph (6), as redesignated by section 409 of this Act, and inserting the following:

"(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any non-immigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

"(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a fiscal year exceeds 20,000, has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States;

"(B) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a fiscal year exceeds 40,000, has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965); and

"(C) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a fiscal year exceeds 50,000—

"(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section

101(a) of the Higher Education Act of 1965; 20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity; or

"(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization."; and

(B) by adding at the end the following:

"(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment-authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or greater than 15 percent of the number of such full-time employees, may file not more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.".

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendment made by paragraph (1)(A) shall apply to any petition or visa application pending on the date of the enactment of this Act and any petition or visa application filed on or after such date.

(B) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established under section 502(d).

(c) DOCUMENT REQUIREMENT.—Section 212(n)(1) of the Immigration and Nationality Act, as amended by section 420, is further amended—

(1) in subparagraph (A)—

(A) in clause (i)(II), by striking ", and" and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) will provide to the H–1B nonimmigrant—

"(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

"(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor."; and

(2) by adding at the end the following:

"(L) An H–1B nonimmigrant may not be stationed at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent if the alien will be controlled and supervised principally by such unaffiliated employer or if the placement of the alien at the worksite of the affiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service.".

(d) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall, subject to the availability of appropriations, submit to Congress a fraud risk assessment of the H–1B visa program.

(e) GROUNDS OF INADMISSIBILITY.—Section 218A(f) of the Immigration and Nationality Act , as added by section 402(a), is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) WAIVER.—For a Y nonimmigrant, the Secretary of Homeland Security may waive those provisions of section 212(a) for which the Secretary

had discretionary authority to waive before the date of the enactment of the Secure Borders, Economic Opportunity and Immigration Enforcement Act of 2007.''.

(f) TERMINATION.—Section 218A(j) of the Immigration and Nationality Act , as added by section 402(a), is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) EXCEPTION.—The period of authorized admission of a Y nonimmigrant shall not terminate for unemployment under paragraph (1)(D) if the alien attests under the penalty of perjury and submits documentation to the satisfaction of the Secretary of Homeland Security that establishes that such unemployment was the result of—

''(A) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(B) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by Federal or State law or by a policy of the alien's employer; or

"(C) any other period of temporary unemployment that is the direct result of a force majeure event.

"(3) RETURN TO FOREIGN RESIDENCE.—An alien who is a Y nonimmigrant whose period of authorized admission terminates under paragraph (1) shall immediately depart the United States.".

(g) REGISTRATION OF DEPARTURE.—Section 218A(k) of the Immigration and Nationality Act, as added by section 402(a), is amended by striking the subsection heading and inserting the following:

"(k) LEAVING THE UNITED STATES.—

"(1) REGISTRATION OF DEPARTURE.—

"(A) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure or designated United States consulate abroad in a manner to be prescribed by the Secretary of Homeland Security.

"(B) EFFECT OF FAILURE TO DEPART.—If an alien described in subparagraph (A) fails to depart the United States or to register such

departure as required under subsection (j)(3), the Secretary of Homeland Security shall—

"(i) take immediate action to determine the location of the alien; and

"(ii) if the alien is located in the United States, remove the alien from the United States.

"(C) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in subparagraph (A) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates. The Secretary shall ensure that the invalidation of such documentation is recorded in the employment eligibility verification system described in section 274A.

"(2) VISITS OUTSIDE THE UNITED STATES.—".

(h) OVERSTAY.—Section 218A(o) of the Immigration and Nationality Act , as added by section 402(a), is amended by striking paragraph (2) and inserting the following:

"(2) Except as provided in paragraph (3) or (4), any alien, other than a Y nonimmigrant, who,

after the date of the enactment of this section remains unlawfully in the United States beyond the period of authorized admission, is permanently barred from any future benefits under Federal immigration law.''.

SEC. ____. IMMIGRATION BENEFITS.

(a) NUMERICAL LIMITS.—Section 201(d)(1)(A) of the Immigration and Nationality Act, as amended by section 501(b), is further amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking ''Section 502(d) of the [Insert title of Act].'' and inserting ''section 502(d) of the Secure Borders, Economic Opportunity and Immigration Enforcement Act of 2007;''; and

(3) by adding at the end the following:

''(iii) up to 20,000 shall be for aliens who met the specifications set forth in section 203(b)(1) on January 1, 2007; and

''(iv) the remaining visas shall be allocated as follows:

''(I) In fiscal years 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed

by an employer on their behalf under this section.

"(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

"(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

"(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.".

(b) MERIT-BASED IMMIGRANTS.—Section 203(b)(1) of the Immigration and Nationality Act, as amended by section 502(b)(1) of this Act, is further amended by adding at the end the following:

"(G) Any employer desiring and intending to employ within the United States an alien qualified under subparagraph (A) may file a pe-

tition with the Secretary of Homeland Security for such classification.

"(H) The Secretary shall collect applications and petitions not later than July 1 of each fiscal year and shall adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit-based threshold is insufficient for the number of visas available that year, the Secretary may continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.".

(c) EFFECTIVE DATE FOR PENDING AND APPROVED PETITIONS AND APPLICATIONS.—Notwithstanding the provisions under section 502(d)(2)—

(1) petitions for an employment-based visa filed for classification under paragraphs (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (as such paragraphs existed on the date before the date of the enactment of this Act) that were filed before the date on which this Act was introduced and were pending or approved on the effective

date of this section, shall be treated as if such provision remained effective and an approved petition may serve as the basis for issuance of an immigrant visa;

(2) the beneficiary, who has been classified as a nonimmigrant described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed;

(3) the application for adjustment of status filed under paragraph (2) shall not be approved until an immigrant visa becomes available; and

(4) aliens with applications for a labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A) shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

(d) PARENT VISITOR VISAS.—Section 214(s) of the Immigration and Nationality Act, as added by section 506(b), is amended—

(1) in paragraph (2)(B), by striking ''$1,000, which shall be forfeit'' and inserting ''$2,500, which shall be forfeited''; and

(2) in paragraph (3), by amending subparagraph (A) to read as follows:

''(A) may not stay in the United States, within any calendar year—

''(i) in the case of a spouse or child sponsored by a nonimmigrant described in section 101(a)(15)(Y)(i), for an aggregate period in excess of 30 days; and

''(ii) in the case of a parent sponsored by a United States citizen child, for an aggregate period in excess of 100 days;''.

SEC. ____. Z NONIMMIGRANT STATUS.

(a) APPLICATION AND BACKGROUND CHECKS.—Notwithstanding any provision of section 601(g) or section 214A(d) of the Immigration and Nationality Act, as added by section 622(b)—

(1) the application forms created pursuant to section 601(g)(1) of this Act and section 214A(d) of the Immigration and Nationality Act shall request

such information as the Secretary determines necessary and appropriate, including information concerning the alien's—

(A) physical and mental health;

(B) complete criminal history, including all arrests and dispositions;

(C) gang membership;

(D) immigration history;

(E) employment history; and

(F) claims to United States citizenship; and

(2) the Secretary shall utilize fingerprints and other biometric data provided by the alien pursuant to section 601(g)(3)(A) and any other appropriate information to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under section 601 of this Act or section 214A of the Immigration and Nationality Act; and

(3) appropriate background checks conducted pursuant to paragraph (2) for applicants determined to be from countries designated as state sponsors of terrorism or for whom there are reasonable grounds

for regarding the alien as a danger to the security of the United States shall include—

(A) other appropriate background checks involving databases operated by the Department of State and other national security databases; and

(B) other appropriate procedures used to conduct terrorism and national security background investigations.

(b) PROBATIONARY BENEFITS.—Notwithstanding any provision of section 601(h) or section 214A(d) of the Immigration and Nationality Act, as added by section 622(b)—

(1) no probationary benefits described in section 601(h)(1) of this Act or section 214A(d)(7) of the Immigration and Nationality Act may be granted to any alien unless the alien passes all appropriate background checks under such section;

(2) an alien awaiting adjudication of the alien's application for probationary status under such sections shall not be considered unauthorized to work pending the granting or denial of such status; and

(3) the term unauthorized alien, for purposes of such section, has the meaning set forth in section

274A(b) of the Immigration and Nationality Act, as added by section 302(a) of this Act.

(c) RETURN HOME REQUIREMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of title VI, an alien who is applying for a Z–1 nonimmigrant visa under section 601 shall not be eligible for such status until the alien, in addition to the requirements described in such section, has completed the following requirements:

(A) The alien shall demonstrate that the alien departed from the United States and received a home return certification of such departure from a United States consular office in order to complete the alien's application for Z status. The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop an appropriate certification for such purposes.

(B) The certification provided under subparagraph (A) shall be obtained not later than 3 years after the date on which the alien was granted probationary status. Failure to obtain such certification shall terminate the alien's eligibility for Z status for a Z–1 applicant and the

eligibility of the applicant's derivative Z–2 or Z–3 applicants pursuant to section 601.

(C) Unless otherwise authorized, an applicant for a Z–1 nonimmigrant visa shall file a home return supplement to the alien's application for Z status at a consular office in the alien's country of origin. The Secretary of State may direct a consular office in a country that is not a Z nonimmigrant's country of origin to accept an application for adjustment of status from such an alien, if the Z nonimmigrant's country of origin is not contiguous to the United States, to the extent made possible by consular resources.

(2) RULEMAKING.—The Secretary of Homeland Security shall promulgate regulations to ensure a secure means for Z applicants to fulfill the requirements under paragraph (1).

(3) CLARIFICATION.—Notwithstanding any other provision of this Act, The return home requirement described in paragraph (1) shall be the sole return home requirement for Z–1 nonimmigrants.

(d) ELECTRONIC SYSTEM FOR PREREGISTRATION OF APPLICANTS FOR Z AND Z–A NONIMMIGRANT STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security may establish an online registration process allowing applicants for Z and Z–A nonimmigrant status to provide, in advance of submitting the application described in section 601(f), such biographical information and other information as the Secretary shall prescribe—

(A) for the purpose of providing applicants with an appointment to provide fingerprints and other biometric data at a facility of the Department of Homeland Security;

(B) to initiate background checks based on such information; and

(C) for other purposes consistent with this Act.

(2) MANDATORY DISCLOSURE OF INFORMATION.—The provisions of section 604 shall apply to the information provided pursuant to the process established under this section.

(e) PERJURY AND FALSE STATEMENTS.—Notwithstanding any other provision of this Act, all application forms for immigration benefits, relief, or status under this Act (including application forms for Z non-immigrant status) shall bear a warning to the applicant and to any other person involved in the preparation of the application that

the making of any false statement or misrepresentation on the application form (or any supporting documentation) will subject the applicant or other person to prosecution for false statement, fraud, or perjury under the applicable laws of the United States, including sections 1001, 1546, and 1621 of title 18, United States Code.

(f) FRAUD PREVENTION PROGRAM.—Notwithstanding any other provision of this Act, the head of each department responsible for the administration of a program or authority to confer an immigration benefit, relief, or status under this Act shall, subject to available appropriations, develop an administrative program to prevent fraud within or upon such program or authority. Such program shall provide for fraud prevention training for the relevant administrative adjudicators within the department and such other measures as the head of the department may provide.

(g) ELIGIBILITY FOR MILITARY SERVICE.—In addition to the benefits described in subparagraphs (A) through (D) of section 601(h)(1), an alien described in such section shall be eligible to serve as a member of the Uniformed Services of the United States.

SEC. ____. GOVERNMENT CONTRACTS.

(a) GOVERNMENT CONTRACTS.—Section 274A(h) of the Immigration and Nationality Act, as amended by section 302 of this Act, is further amended by striking paragraphs (1) and (2) and inserting the following:

"(1) EMPLOYERS.—

"(A) IN GENERAL.—If an employer who does not hold Federal contracts, grants, or cooperative agreements is determined by the Secretary of Homeland Security to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. The Secretary or the Attorney General shall advise the Administrator of General Services of any such debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for the period of the debarment.

"(B) WAIVER AUTHORITY.—After consideration of the views of any agency or depart-

ment that holds a contract, grant, or cooperative agreement with an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive the debarment or may limit the duration or scope of the debarment under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.

''(2) CONTRACTORS AND RECIPIENTS.—

''(A) IN GENERAL.—If an employer who holds Federal contracts, grants, or cooperative agreements is determined by the Secretary of Homeland Security to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debar-

ment from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. Prior to debarring the employer, the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies holding contracts, grants, or cooperative agreements with the employer of the proceedings to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not less than 5 years.

"(B) WAIVER AUTHORITY.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive the debarment or may limit the duration or scope of the debarment under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

"(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.".

(b) LIMIT ON PERCENTAGE OF H–1B AND L EMPLOYEES.—Subparagraph (I) of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), as added by section 420(d), is amended to read as follows:

"(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H-1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).".

(c) WAGE DETERMINATION FOR H–1B NONIMMIGRANTS.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(p)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(p)(3)) is amended by adding at the end the following sentence: "The wage rate required under subsections (n)(1)(A)(i)(II) and (t)(1)(A)(i)(II) shall be determined and issued by

the Secretary of Labor, pursuant to a request from an employer filing a labor condition application with the Secretary for purposes of those subsections and as part of the adjudication of such application. The Secretary shall respond to such a request within 14 days.''.

(2) LABOR CONDITION APPLICATIONS.—Section 212(n)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)(A)) is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) by redesignating clause (ii) as clause (iv); and

(C) by inserting after clause (i) the following new clauses:

''(ii) has filed with the Secretary of Labor, pursuant to section 212(p)(3), a request for the Secretary's determination of the appropriate wage rate;

''(iii) in no instance will pay more than 30 percent of the H–1B nonimmigrants employed by the employer wages equivalent to the lowest wage level under section 212(p)(4); and''.

(3) NONIMMIGRANT PROFESSIONALS; LABOR ATTESTATIONS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended in paragraph (1)(A) of the first subsection (t) (as added by section 402(b)(2) of Public Law 108–77 (117 Stat. 941))—

(A) in clause (i), by striking ''and'' at the end;

(B) by redesignating clause (ii) as clause (iii); and

(C) inserting after clause (i) the following new clause:

''(ii) has filed with the Secretary of Labor, pursuant to section 212(p)(3), a request for the Secretary's determination of the appropriate wage rate; and''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(d) PROHIBITION ON OUTPLACEMENT OF H–1B NONIMMIGRANTS.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this Act, is further amended—

(A) in paragraph (1), by amending subparagraph (F), as amended by section 420, to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer where there are indicia of an employment relationship between the nonimmigrant and such other employer unless the employer of the alien has been granted a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E), as amended by section 420, to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The Secretary shall grant or deny a waiver within 14 days after the waiver application is filed. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

"(i) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

"(ii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

"(iii) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.".

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required by section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(e) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for post-

ing positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

"(B) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

"(C) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.".

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

(f) WAGE DETERMINATION FOR L NONIMMIGRANTS.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

"(I) offer such nonimmigrant, during the period of authorized employment,

wages, based on the best information available at the time the application is filed, which are not less than the highest of—

"(aa) the prevailing wage level for the occupational classification in the area of employment; or

"(bb) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; and

"(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

"(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

"(iii) It is a failure to meet a condition under this subparagraph for an employer, who

has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

"(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

"(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

"(aa) the opportunity to participate in health, life, disability, and other insurance plans;

"(bb) the opportunity to participate in retirement and savings plans; and

"(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

"(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(g) PROHIBITION ON OUTPLACEMENT OF L NONIMMIGRANTS.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by this section, is further amended by adding at the end the following:

"(M)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer where there are indicia of an employment relationship between the alien and such other employer unless the employer of the alien has been granted a waiver under clause (ii).

"(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period

for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The Secretary shall grant or deny a waiver within 14 days after the waiver application is filed. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

"(I) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

"(II) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

"(III) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or

service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required by section 212(c)(2)(M)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

SEC. ____. H–1B PROVISIONS.

(a) REPEAL OF CERTAIN TEMPORARY WORKER PROVISIONS.—The following amendments are null and void and have no effect:

(1) The amendments to subsection (b) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) made by subsection (c) of section 418 of this Act.

(2) The amendments to subsection (h) of such section 214 made by subsection (d) of such section 418.

(3) The amendments to subsection (g) of such section 214 made by subsection (a) of section 419 of this Act.

(4) The amendments to paragraph (2) of subsection (i) of such made by subsection (b) such of section 419.

(b) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Subsection (h) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had

been admitted as, provided status as, or obtained a change of status''.

(c) H–1B AMENDMENTS.—Subsection (g) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 15,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;'';

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section

1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(d) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any non-immigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 50,000

''(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) (20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity; or

''(ii) is employed (or has received an offer of employment) at a nonprofit re-

search organization or a governmental research organization;

"(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

"(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.".

(e) EMPLOYER REQUIREMENT.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

"(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a non-

immigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.''.

(f) APPLICABILITY.—The amendment made by subsection (d) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date. The amendment made by subsection (e) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act

(g) DOCUMENT REQUIREMENT.—Paragraph (1) of section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)), as amended by this Act, is further amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting a semicolon and ''and''; and

(C) by adding at the end the following:

"(iii) will provide to the H-1B non-immigrant—

"(I) a copy of each application filed on behalf of the n nonimmigrant under this section; and

"(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.";

(2) by adding at the end the following:

"(L) An H-1B nonimmigrant may not be stationed at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent if the alien will be controlled and supervised principally by such unaffiliated employer or if the placement of the alien at the worksite of the affiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service.".

(h) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services

shall submit to Congress a fraud risk assessment of the H-1B visa program.

(i) MERIT-BASED IMMIGRANTS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 11519(d)), as amended by section 501(b) to is amended to read as follows:

"(d) WORLDWIDE LEVEL OF MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—

"(1) IN GENERAL.—The worldwide level of merit-based, special, and employment creation immigrants under this subsection for a fiscal year—

"(A) for the first five fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) of this Act for fiscal year 2005, plus any immigrant visas not required for the class specified in (c), of which—

"(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y);

"(ii) 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved at the time of the effective date of section 502(d) of

the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007;

"(iii) up to 20,000 shall be for aliens who met the specifications set forth in section 203(b)(1)(as of January 1, 2007); and

"(iv) the remaining visas be allocated as follows:

"(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

"(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

"(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

"(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an em-

ployer on their behalf under this section.''.

(j) AMENDMENTS TO MERIT-BASED IMMIGRANT PROVISIONS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), as amended by section 502(b), is further amended in paragraph (1) by adding at the end the following new subparagraphs:

''(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adju-

dicate the applications and petitions under this section.''.

(k) EFFECTIVE DATE.—

(1) REPEAL.—Paragraph (2) of section 502(d) is null and void and shall have no effect.

(2) PENDING AND APPROVED PETITIONS AND APPLICATIONS.—Petitions for an employment-based visa filed for classification under section 203(b)(1), (2), or (3) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of section 502) that were pending or approved at the time of the effective date of section 502, shall be treated as if such provision remained effective and an approved petition may serve as the basis for issuance of an immigrant visa. The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) regardless of whether an immigrant visa is immediately available at the time the application is

filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available. Aliens with applications for a labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

SEC. ____. INFORMATION SHARING BETWEEN FEDERAL AND LOCAL LAW ENFORCEMENT OFFICERS [COLEMAN].

(a) IN GENERAL.—The certification submitted under section 1(a) shall include a statement that the Secretary of Homeland Security has promulgated a regulation stating that no person, agency, or Federal, State, or local government entity may prohibit a law enforcement officer from acquiring information regarding the immigration status of any individual if the officer seeking such information has probable cause to believe that the individual is not lawfully present in the United States.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) may be construed—

(1) to limit the acquisition of information as otherwise provided by law; or

(2) to require a person to disclose information regarding an individual's immigration status prior to the provision of medical or education services.

SEC. ____. SUPPLEMENTAL IMMIGRATION FEE.

(a) AUTHORIZATION OF FEE.—

(1) IN GENERAL.—Subject to paragraph (2), any alien who receives any immigration benefit under this title, or the amendments made by this title, shall, before receiving such benefit, pay a fee to the Secretary in an amount equal to $500, in addition to other applicable fees and penalties imposed under this title, or the amendments made by this title.

(2) FEES CONTINGENT ON APPROPRIATIONS.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed, as described in subsection (b), is provided for in advance in an appropriations Act.

(b) DEPOSIT AND EXPENDITURE OF FEES.—

(1) DEPOSIT.—Amounts collected under subsection (a) shall be deposited as an offsetting collection in, and credited to, the accounts providing appropriations—

(A) to carry out the apprehension and detention of any alien who is inadmissible by reason of any offense described in section 212(a) of the Immigration and Nationality Act;

(B) to carry out the apprehension and detention of any alien who is deportable for any offense under section 237(a) of such Act;

(C) to acquire border sensor and surveillance technology;

(D) for air and marine interdiction, operations, maintenance, and procurement;

(E) for construction projects in support of the United States Customs and Border Protection;

(F) to train Federal law enforcement personnel; and

(G) for employment eligibility verification.

(2) AVAILABILITY OF FEES.—Amounts deposited under paragraph (1) shall remain available until expended for the activities and services described in paragraph (1).

SEC. ____. INCLUSION OF PROBATIONARY BENEFITS IN TRIGGER PROVISION.

Notwithstanding section 1(a), no probationary benefit authorized under section 601(h) may be issued to an alien until after section 1 has been implemented.

SEC. ____. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—A petition by an employer for any visa authorizing employment in the United States may not be approved until the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to such Act after a visa described in subsection (a) has been approved, such visa shall expire on the date that is 60 days after the date on which such notice is provided.

(c) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, that the total number of the employer's employees in the United States will not be reduced as a result of a mass layoff.

TITLE __—STRENGTHENING AMERICAN CITIZENSHIP

SEC. __01. SHORT TITLE.

This title may be cited as the ''Secure Borders, Economic Opportunity and Immigration Reform Act of 2007''.

SEC. __02. DEFINITION.

In this title, the term ''Oath of Allegiance'' means the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the United States, as prescribed in subsection (e) of section 337 of the Immigration and Nationality Act (8 U.S.C. 1448(e)), as added by section __31(a)(2).

Subtitle A—Learning English

SEC. __11. ENGLISH FLUENCY.

(a) EDUCATION GRANTS.—

(1) ESTABLISHMENT.—The Chief of the Office of Citizenship of the Department (referred to in this subsection as the ''Chief'') shall establish a grant program to provide grants in an amount not to exceed $500 to assist lawful permanent residents of the United States who declare an intent to apply for citizenship in the United States to meet the requirements under section 312 of the Immigration and Nationality Act (8 U.S.C. 1423).

(2) USE OF FUNDS.—Grant funds awarded under this subsection shall be paid directly to an accredited institution of higher education or other qualified educational institution (as determined by the Chief) for tuition, fees, books, and other educational resources required by a course on the English language in which the lawful permanent resident is enrolled.

(3) APPLICATION.—A lawful permanent resident desiring a grant under this subsection shall submit an application to the Chief at such time, in such manner, and accompanied by such information as the Chief may reasonably require.

(4) PRIORITY.—If insufficient funds are available to award grants to all qualified applicants, the Chief shall give priority based on the financial need of the applicants.

(5) NOTICE.—The Secretary, upon relevant registration of a lawful permanent resident with the Department of Homeland Security, shall notify such lawful permanent resident of the availability of grants under this subsection for lawful permanent residents who declare an intent to apply for United States citizenship.

(b) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following:

"(g) A lawful permanent resident of the United States who demonstrates English fluency, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State, will satisfy the residency requirement under subsection (a) upon the completion of 4 years of continuous legal residency in the United States.".

SEC. __12. SAVINGS PROVISION.

Nothing in this subtitle shall be construed to—

(1) modify the English language requirements for naturalization under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)); or

(2) influence the naturalization test redesign process of the Office of Citizenship of the United States Citizenship and Immigration Services (except for the requirement under section __31(b)).

Subtitle B—Education About the American Way of Life

SEC. 21. AMERICAN CITIZENSHIP GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance for—

(1) efforts by entities (including veterans and patriotic organizations) certified by the Office of Citizenship of the Department to promote the patriotic integration of prospective citizens into the American way of life by providing civics, history, and English as a second language courses, with a specific emphasis on attachment to principles of the Constitution of the United States, the heroes of American history (including military heroes), and the meaning of the Oath of Allegiance; and

(2) other activities approved by the Secretary to promote the patriotic integration of prospective citizens and the implementation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including grants—

(A) to promote an understanding of the form of government and history of the United States; and

(B) to promote an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States.

(b) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation, established under section __22(a), for grants under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. __22. FUNDING FOR THE OFFICE OF CITIZENSHIP.

(a) AUTHORIZATION.—The Secretary, acting through the Director of United States Citizenship and Immigration Services, is authorized to establish the United States Citizenship Foundation (referred to in this section as the ''Foundation''), an organization duly incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(1) American common values and traditions, including an understanding of the history of the United States and the principles of the Constitution of the United States; and

(2) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(b) DEDICATED FUNDING.—

(1) IN GENERAL.—Not less than 1.5 percent of the funds made available to United States Citizenship and Immigration Services (including fees and appropriated funds) shall be dedicated to the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(A) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(B) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(2) SENSE OF CONGRESS.—It is the sense of Congress that dedicating increased funds to the Office of Citizenship should not result in an increase in fees charged by United States Citizenship and Immigration Services.

(c) GIFTS.—

(1) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(2) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship, including the patriotic integration of prospective citizens into—

(1) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(2) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

SEC. __23. RESTRICTION ON USE OF FUNDS.

Amounts appropriated to carry out a program under this subtitle may not be used to organize individuals for the purpose of political activism or advocacy.

SEC. 24. REPORTING REQUIREMENT.

The Chief of the Office of Citizenship shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committee on the Judiciary of the House of Representatives, an annual report that contains—

(1) a list of the entities that have received funds from the Office of Citizenship during the reporting period under this subtitle and the amount of funding received by each such entity;

(2) an evaluation of the extent to which grants received under this subtitle and subtitle A successfully promoted an understanding of—

(A) the English language; and

(B) American history and government, including the heroes of American history, the meaning of the Oath of Allegiance, and an attachment to the principles of the Constitution of the United States; and

(3) information about the number of lawful permanent residents who were able to achieve the knowledge described under paragraph (2) as a result of the grants provided under this subtitle and subtitle A.

Subtitle C—Codifying the Oath of Allegiance

SEC. 31. OATH OR AFFIRMATION OF RENUNCIATION AND ALLEGIANCE.

(a) REVISION OF OATH.—Section 337 of the Immigration and Nationality Act (8 U.S.C. 1448) is amended—

(1) in subsection (a), by striking ''under section 310(b) an oath'' and all that follows through ''personal moral code.'' and inserting ''under section 310(b), the oath (or affirmation) of allegiance prescribed in subsection (e).''; and

(2) by adding at the end the following:

''(e)(1) Subject to paragraphs (2) and (3), the oath (or affirmation) of allegiance prescribed in this subsection is as follows: 'I take this oath solemnly, freely, and without any mental reservation. I absolutely and entirely renounce all allegiance to any foreign state or power of which I have been a subject or citizen. My fidelity and allegiance from this day forward are to the United States of America. I will bear true faith and allegiance to the Constitution and laws of the United States, and will support and defend them against all enemies, foreign and domestic. I will bear arms, or perform noncombatant military or civilian serv-

ice, on behalf of the United States when required by law. This I do solemnly swear, so help me God.'.

''(2) If a person, by reason of religious training and belief (or individual interpretation thereof) or for other reasons of good conscience, cannot take the oath prescribed in paragraph (1)—

''(A) with the term 'oath' included, the term 'affirmation' shall be substituted for the term 'oath'; and

''(B) with the phrase 'so help me God' included, the phrase 'so help me God' shall be omitted.

''(3) If a person shows by clear and convincing evidence to the satisfaction of the Attorney General that such person, by reason of religious training and belief, cannot take the oath prescribed in paragraph (1)—

''(A) because such person is opposed to the bearing of arms in the Armed Forces of the United States, the words 'bear arms, or' shall be omitted; and

''(B) because such person is opposed to any type of service in the Armed Forces of the United States, the words 'bear arms, or' and 'noncombatant military or' shall be omitted.

''(4) As used in this subsection, the term 'religious training and belief'—

"(A) means a belief of an individual in relation to a Supreme Being involving duties superior to those arising from any human relation; and

"(B) does not include essentially political, sociological, or philosophical views or a merely personal moral code.

"(5) Any reference in this title to 'oath' or 'oath of allegiance' under this section shall be deemed to refer to the oath (or affirmation) of allegiance prescribed under this subsection.".

(b) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance into the history and government test given to applicants for citizenship.

(c) NOTICE TO FOREIGN EMBASSIES.—Upon the naturalization of a new citizen, the Secretary, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

(1) renounced allegiance to that foreign country; and

(2) sworn allegiance to the United States.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 6 months after the date of the enactment of this Act.

Subtitle D—Celebrating New Citizens

SEC. 41. ESTABLISHMENT OF NEW CITIZENS AWARD PROGRAM.

(a) ESTABLISHMENT.—There is established a new citizens award program to recognize citizens who—

(1) have made an outstanding contribution to the United States; and

(2) are naturalized during the 10-year period ending on the date of such recognition.

(b) PRESENTATION AUTHORIZED.—

(1) IN GENERAL.—The President is authorized to present a medal, in recognition of outstanding contributions to the United States, to citizens described in subsection (a).

(2) MAXIMUM NUMBER OF AWARDS.—Not more than 10 citizens may receive a medal under this section in any calendar year.

(c) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike a medal with suitable emblems, devices, and inscriptions, to be determined by the President.

(d) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 42. NATURALIZATION CEREMONIES.

(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Park Service, the Archivist of the United States, and other appropriate Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies.

(b) VENUES.—In developing the strategy under this section, the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(c) REPORTING REQUIREMENT.—The Secretary shall annually submit a report to Congress that contains—

(1) the content of the strategy developed under this section; and

(2) the progress made towards the implementation of such strategy.

SEC. ____. EMPLOYER OBLIGATION TO DOCUMENT COMPARABLE JOB OPPORTUNITIES.

(a) IN GENERAL.—Section 218B(b) of the Immigration and Nationality Act, as added by section 403 of this Act, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by striking the period at the end and insert ''; and''; and

(C) by adding at the end the following:

''(E) documenting that for a period of not less than 90 days before the date an application is filed under subsection (a)(1), and for a period of 1 year after the date that such application is filed, every comparable job opportunity (including those in the same occupation for which an application for a Y–1 worker is made, and all other job opportunities for which comparable education, training, or experience are required), that becomes available at the employer is posted to the designated State employment service agency, including a description of the wages and other terms and conditions of employment and the minimum education, training, experience and other requirements of the

job, and the designated State agency has been authorized—

"(i) to post all such job opportunities on the Internet website established under section 414 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, with local job banks, and with unemployment agencies and other referral and recruitment sources pertinent to the job involved; and

"(ii) to notify labor organizations in the State in which the job is located and, if applicable, the office of the local union which represents the employees in the same or substantially equivalent job classification of the job opportunity.";

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

(3) by inserting after paragraph (1), the following:

"(2) PENALTY FOR FAILURE TO DOCUMENT COMPLIANCE.—The failure of an employer to document compliance with paragraph (1)(E) shall result in the employer's ineligibility to make a subsequent application under subsection (a)(1) during the 1-

year period following the initial application. The Secretary of Labor shall routinely publicize the requirement under paragraph (1)(E) in communications with employers, and encourage State agencies to also publicize such requirement, to help employers become aware of and comply with such requirement in a timely manner.''.

(b) DEFINITION OF EMPLOYER.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)), as amended by subsection (a) of the first section 302 (relating to unlawful employment of aliens), is further amended by striking paragraph (2).

SEC. ____. TREATMENT OF CERTAIN NATIONALS OF IRAQ.

(a) REQUIREMENT FOR REHEARING OF CERTAIN CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CONDITIONS.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following:

"(4) CHANGED COUNTRY CONDITIONS.—The Attorney General shall accept and grant a motion filed not later than 6 months after the date of the enactment of this paragraph for rehearing before an immigration judge of an application for asylum or withholding of removal if the alien—

"(A) is a religious minority from Iraq whose claim was denied by an immigration judge in whole or in part on the basis of changed country conditions on or after March 1, 2003; and

"(B) has remained in the United States as of the date of the enactment of this paragraph.".

(b) CONSIDERATION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.—Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the

Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that he or she is a member of a religious minority group in Iraq; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

SEC. ____. PREEMPTION.

In section 274A(i) of the Immigration and Nationality Act, as amended by section 302(a) of this Act, strike paragraph (2) and insert the following:

"(2) PREEMPTION.—This section preempts any State or local law that—

"(A) requires the use of the EEVS in a manner that—

"(i) conflicts with any Federal policy, procedure, or timetable; or

"(ii) imposes a civil or criminal sanction (other than through licensing or other similar laws) on a person that employs, or recruits or refers for a fee for employment, any unauthorized alien; and

"(B) requires, as a condition of conducting, continuing, or expanding a business, that, to achieve compliance with subsection (a) or (b), a business entity—

"(i) shall provide, build, fund, or maintain a shelter, structure, or designated area at or near the place of business of the entity for use by—

"(I) any individual who is not an employee of the business entity who enters or seeks to enter the property

of the entity for the purpose of seeking employment by the entity; or

''(II) any contractor, customer, or other person over which the business entity has no authority; or

''(ii) shall carry out any other activity to facilitate the employment by others of—

''(I) any individual who is not an employee of the business entity who enters or seeks to enter the property of the entity for the purpose of seeking employment by the entity; or

''(II) any contractor, customer, or other person over which the business entity has no authority.''.

SEC. ____. CLARIFYING AMENDMENTS REGARDING THE USE OF SOCIAL SECURITY CARDS.

(a) USE OF SOCIAL SECURITY CARDS TO ESTABLISH IDENTITY AND EMPLOYMENT AUTHORIZATION.—Section 274A of the Immigration and Nationality Act, as amended by section 302, is further amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) in clause (ii)(III), by striking ''; or'' and inserting a semicolon;

(ii) in clause (iii), by striking the end period and inserting ''; or''; and

(iii) by adding at the end the following:

''(iv) social security card (other than a card that specifies on its face that the card is not valid for establishing employment authorization in the United States) that bears a photograph and meets the standards established under section 716(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, upon the recommendation of the Secretary of Homeland Security, in consultation with the Commissioner of Social

Security, pursuant to section 716(f)(1) of such Act.''; and

(B) in subparagraph (D)(i), by striking ''may'' and inserting ''shall, not later than the date on which the report described in section 716(f)(1) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, is submitted,''; and

(2) in subsection (d)(9)(B)(v)(I), by striking ''as specified in (D)'' and inserting ''as specified in subparagraph (D), including photographs and any other biometric information as may be required''.

(b) ACCESS TO SOCIAL SECURITY CARD INFORMATION.—Section 205(c)(2)(I)(i) of the Social Security Act, as added by section 308, is further amended by inserting at the end of the flush text at the end the following new sentence: ''As part of the employment eligibility verification system established under section 274A of the Immigration and Nationality Act, the Commissioner of Social Security shall provide to the Secretary of Homeland Security access to any photograph, other feature, or information included in the social security card.''

(c) INCREASING SECURITY AND INTEGRITY OF SOCIAL SECURITY CARDS.—Notwithstanding any other provision of this Act, section 305 of this Act is repealed.

(d) FRAUD-RESISTANT, TAMPER-RESISTANT, AND WEAR-RESISTANT SOCIAL SECURITY CARDS.—

(1) ISSUANCE.—Not later than first day of the second fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (g), the Commissioner of Social Security shall begin to administer and issue fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(2) INTERIM.—Not later than the first day of the seventh fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (g), the Commissioner of Social Security shall issue only fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(3) COMPLETION.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (g), all social security cards that are not fraud-resistant, tamper-resistant, and wear-resistant shall be invalid for establishing employment authorization for any individual 16 years of age or older.

(4) EXEMPTION.—Nothing in this section shall require an individual under the age of 16 years to be issued or to present for any purpose a social security card described in this subsection. Nothing in this section shall prohibit the Commissioner of Social Security from issuing a social security card not meeting the requirements of this subsection to an individual under the age of 16 years who otherwise meets the eligibility requirements for a social security card.

(e) ADDITIONAL DUTIES OF THE SOCIAL SECURITY ADMINISTRATION.—In accordance with the responsibilities of the Commissioner of Social Security under section 205(c)(2)(I) of the Social Security Act, as added by section 308, the Commissioner—

(1) shall issue a social security card to an individual at the time of the issuance of a social security account number to such individual, which card shall—

(A) contain such security and identification features as determined by the Secretary of Homeland Security, in consultation with the Commissioner; and

(B) be fraud-resistant, tamper-resistant, and wear-resistant;

(2) in consultation with the Secretary of Homeland Security, shall issue regulations specifying such particular security and identification features, renewal requirements (including updated photographs), and standards for the social security card as necessary to be acceptable for purposes of establishing identity and employment authorization under the immigration laws of the United States; and

(3) may not issue a replacement social security card to any individual unless the Commissioner determines that the purpose for requiring the issuance of the replacement document is legitimate.

(f) REPORTING REQUIREMENTS.—

(1) REPORT ON THE USE OF IDENTIFICATION DOCUMENTS.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (g), the Secretary of Homeland Security shall submit to Congress a report recommending which documents, if any, among those described in section 274A(c)(1) of the Immigration and Nationality Act, should continue to be used to establish identity and employment authorization in the United States.

(2) REPORT ON IMPLEMENTATION.—Not later than 12 months after the date on which the Commissioner begins to administer and issue fraud-resistant, tamper-resistant, and wear-resistant cards under subsection (d)(1), and annually thereafter, the Commissioner shall submit to Congress a report on the implementation of this section. The report shall include analyses of the amounts needed to be appropriated to implement this section, and of any measures taken to protect the privacy of individuals who hold social security cards described in this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. ____. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended—

(1) by striking subsections (c) and (d), as added by section 607, and inserting the following:

''(c) The criterion specified in this subsection is that the individual, if not a citizen or national of the United States—

''(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements under subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(2) at the time any such quarters of coverage are earned—

''(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15));

''(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)); and

"(C) the business engaged in, or service as a crewman performed, is within the scope of the terms of such individual's admission to the United States.

"(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of the enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

"(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).".

(b) BENEFIT COMPUTATION.—Section 215(e)(3) of such Act, as added by section 607(b)(3), is amended—

(1) by inserting "who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007" after "earnings of an individual";

(2) by striking "for any year"; and

(3) by striking ''section 214(c)'' and inserting ''section 214(d)''.

(c) EFFECTIVE DATE.—Notwithstanding section 607(c), the amendments made by this section and by section 607 shall take effect on the date of the enactment of this Act.

SEC. ____. PROTECTION FOR SCHOLARS.

(a) NONIMMIGRANT CATEGORY.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) of the Immigration and Nationality Act is amended by striking subparagraph (W), as added by section 401(a)(4), and inserting the following:

"(W) subject to section 214(s), an alien—

"(i) who the Secretary of Homeland Security determines—

"(I) is a scholar; and

"(II) is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity; or

"(ii) who is the spouse or child of an alien described in clause (i) who is accompanying or following to join such alien;".

(b) CONDITIONS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by this Act, is further amended by adding at the end the following:

"(s) REQUIREMENTS APPLICABLE TO PERSECUTED SCHOLARS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—An alien is eligible for nonimmigrant status under section

101(a)(15)(W)(i) if the alien demonstrates that the alien is a scholar in any field who is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity.

"(B) CONSULTATION.—In determining eligibility of aliens under subparagraph (A), the Secretary of Homeland Security shall consult with nationally recognized organizations that have not less than 5 years of experience in assisting and funding scholars needing to escape dangerous conditions.

"(2) NUMERICAL MINIMUMS.—The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101(a)(15)(W) in any fiscal year may not be less than 2,000, unless the Secretary determines that less than 2,000 aliens who are qualified for such status are seeking such status during the fiscal year.

"(3) CREDIBLE EVIDENCE CONSIDERED.—In acting on any application filed under this subsection, the consular officer or the Secretary of Homeland Security, as appropriate, shall consider any credible evidence relevant to the application, including infor-

mation received in connection with the consultation required under paragraph (1)(B).

"(4) NONEXCLUSIVE RELIEF.—Nothing in this subsection limits the ability of an alien who qualifies for status under section 101(a)(15)(W) to seek any other immigration benefit or status for which the alien may be eligible.

"(5) DURATION OF STATUS.—

"(A) INITIAL PERIOD.—The initial period of admission of an alien granted status as a nonimmigrant under section 101(a)(15)(W) shall be not more than 2 years.

"(B) EXTENSION OF PERIOD.—The period of admission described in subparagraph (A) may be extended for 1 additional 2-year period.".

(c) EMPLOYMENT CREATION VISAS.—Section 203(b)(3) of the Immigration and Nationality Act, as redesignated and amended by section 502(b)(3), is further amended—

(1) in subparagraph (A), by striking "2,800" and inserting "10,000"; and

(2) in subparagraph (B), by striking "1,500" and inserting "7,500".

SEC. ____. REPORT ON Y NONIMMIGRANT VISAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall annually report to Congress on the number of Y nonimmigrant visa holders that do not report at a port of departure and return to their foreign residence, as required under section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

(b) TIMING OF REPORTS.—

(1) INITIAL REPORT.—The initial report required under subsection (a) shall be submitted to Congress not later than 2 years and 2 months after the date on which the Secretary of Homeland Security makes the certification described in section 1(a) of this Act.

(2) SUBSEQUENT REPORTS.—Following the submission of the initial report under paragraph (1), each subsequent report required under subsection (a) shall be submitted to Congress not later than 60 days after the end of each calendar year.

(c) REQUIRED ACTION.—Based upon the findings in the reports required under subsection (a), the Secretary, for the following calendar year, shall reduce the number of available Y nonimmigrant visas by a number which is equal to the number of Y nonimmigrant visa holders who do not return to their foreign residence, as required under

section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

(d) INFORMATION SHARING.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et. seq.) is amended by adding after section 240D, as added by section 223(a) of this Act, the following:

"SEC. 240E. INFORMATION SHARING WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Consistent with the authority of State and local law enforcement agencies and political subdivisions to assist the Federal Government in the enforcement of Federal immigration laws, the Secretary of Homeland Security or the Attorney General may make available information collected and maintained pursuant to any provision of this Act. Nothing in this section may be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(b) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken

into Federal custody, the Secretary of Homeland Security—

"(1) shall—

"(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

"(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

"(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

"(I) the conclusion of the State charging process or dismissal process; or

"(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

"(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

"(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

"(c) REIMBURSEMENT.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (a)(1).

"(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (a)(1) shall be equal to—

"(A) the product of—

"(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of

a State (or, as appropriate, a political subdivision of the State); multiplied by

"(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

"(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

"(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (b) and the time of transfer into Federal custody.

"(d) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

"(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

"(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

"(e) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall

establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (b), into Federal custody.

"(f) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

"(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary may not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.

"(g) PROVISION OF INFORMATION TO NATIONAL CRIME INFORMATION CENTER.—

"(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

"(A) against whom a final order of removal has been issued;

"(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) or (b)(2) of section 240B or who has violated a condition of a voluntary departure agreement under section 240B;

"(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

"(D) whose visa has been revoked.

"(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center shall promptly remove any information provided by the

Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

"(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.".

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $850,000,000 for fiscal year 2008 and for each subsequent fiscal year for the de-

tention and removal of aliens who are not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

(f) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

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

"(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General, based upon any relevant information or evidence, including classified, sensitive, or national security information;";

(2) in paragraph (8), by striking "(as defined in subsection (a)(43))" and inserting the following: "regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

"(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

"(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or".

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character.'' and inserting ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(g) PENDING PROCEEDINGS.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(h) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) of the Immigration and Nationality Act (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the con-

ditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) of such Act (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(i) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) of the Immigration and Nationality Act (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''In any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(j) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(k) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect

to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(l) DISTRICT COURT JURISDICTION.—Section 336(b) of the Immigration and Nationality Act (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

SEC. ____. REPORT ON Y NONIMMIGRANT VISAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall constantly report to Congress on the number of Y nonimmigrant visa holders that do not report at a port of departure and return to their foreign residence, as required under section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

(b) TIMING OF REPORTS.—

(1) INITIAL REPORT.—The initial report required under subsection (a) shall be submitted to Congress not later than 26 months after the date on which the Secretary of Homeland Security makes the certification described in section 1(a).

(2) SUBSEQUENT REPORTS.—Following the submission of the initial report under paragraph (1), each subsequent report required under subsection (a) shall be submitted to Congress not later than 60 days after the end of each calendar year.

(c) REQUIRED ACTION.—Based upon the findings in the reports required under subsection (a), the Secretary, for the following calendar year, shall reduce the number of available Y nonimmigrant visas by a number which is equal to the number of Y nonimmigrant visa holders who do not return to their foreign residence, as required under section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

TITLE — MISCELLANEOUS

Subtitle A—Other Matters

SEC. . MEDICAL SERVICES IN UNDERSERVED AREAS.

(a) FEDERAL PHYSICIAN WAIVER PROGRAM.—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)), as amended by section 425(b), is further amended by adding at the end the following:

''(5) In administering the Federal physician waiver program authorized under paragraph (1)(C), the Secretary of Health and Human Services shall accept applications from—

''(A) primary care physicians and physicians practicing specialty medicine; and

''(B) hospitals and health care facilities of any type located in an area that the Secretary has designated as having a shortage of physicians, including—

''(i) a Health Professional Shortage Area (as defined in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)));

''(ii) a Mental Health Professional Shortage Area;

''(iii) a Medically Underserved Area (as defined in section 330I(a)(4) of the Public Health Service Act (42 U.S.C. 254c–14(a)(4)));

"(iv) a Medically Underserved Population (as defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3))); or

"(v) a Physician Scarcity Areas (as identified under section 1833(u)(4) of the Social Security Act (42 U.S.C. 13951(u)(4))).

"(6) Any employer shall be deemed to have met the requirements under paragraph (1)(D)(iii) if the facility of the employer is located in an area listed in paragraph (5)(B).".

(b) RETAINING AMERICAN-TRAINED PHYSICIANS IN PHYSICIAN SHORTAGE COMMUNITIES.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

"(F) Alien physicians who have completed service requirements under section 214(l).".

SEC. ____. REPORT ON PROCESSING OF VISA APPLICATIONS.

Not later than February 1, 2008, and each year thereafter through 2011, the Secretary of State shall submit a report to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives that includes

the following information with respect to each visa-issuing post operated by the Department of State where, during the fiscal year preceding the report, the length of time between the submission of a request for a personal interview for a nonimmigrant visa and the date of the personal interview of the applicant exceeded, on average, 30 days:

(1) The number of visa applications submitted in each of the 3 preceding fiscal years, including information regarding each type of visa applied for.

(2) The number of visa applications that were approved in each of the 3 preceding fiscal years, including information regarding the number of each type of visa approved.

(3) The number of visa applications in each of the 3 preceding fiscal years that were subject to a Security Advisory Opinion or similar specialized review.

(4) The average length of time between the submission of a visa application and the personal interview of the applicant in each of the 3 preceding fiscal years, including information regarding the type of visa applied for.

(5) The percentage of visa applicants who were refused a visa in each of the 3 preceding fiscal years,

including information regarding the type of visa applied for.

(6) The number of consular officers processing visa applications in each of the 3 preceding fiscal years.

(7) A description of each new procedure or program designed to improve the processing of visa applications that was implemented in each of the 3 preceding fiscal years.

(8) A description of construction or improvement of facilities for processing visa applications in each of the 3 preceding fiscal years.

(9) A description of particular communications initiatives or outreach undertaken to communicate the visa application process to potential or actual visa applicants.

(10) An analysis of the facilities, personnel, information systems, and other factors affecting the duration of time between the submission of a visa application and the personal interview of the applicant, and the impact of those factors on the quality of the review of the application.

(11) Specific recommendations as to any additional facilities, personnel, information systems, or other requirements that would allow the personal

interview to occur not more than 30 days following the submission of a visa application.

SEC. ___. REPEAL OF SPECIAL RULE FOR ALIENS TO PROVIDE MEDICAL SERVICES.

The amendments made by paragraph (3) of section 425(h) are null and void and shall have no effect.

SEC. ___. TECHNICAL CORRECTION TO QUALIFICATIONS FOR CERTAIN IMMIGRANTS.

(a) REPEAL OF TECHNICAL AMENDMENT.—The amendment made by paragraph (6) of subsection (e) of the first section 502 (relating to increasing American competitiveness through a merit-based evaluation system for immigrants) is null and void and shall have no effect.

(b) REPEAL OF LABOR CERTIFICATION REQUIREMENT.—Paragraph (5) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

SEC. ___. TECHNICAL CORRECTIONS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating

section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, ''Border tunnels and passages'', and inserting the following:

''555. Border tunnels and passages.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by striking ''554'' and inserting ''555''.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking ''554'' and inserting ''555''.

SEC. ____. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ATHLETES, ARTISTS, ENTERTAINERS, AND OTHER ALIENS OF EXTRAORDINARY ABILITY.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (6)(D)—

(A) by striking ''Any person'' and inserting the following:

''(i) Except as provided in clause (ii), any person''; and

(B) by adding at the end the following:

''(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien described in subparagraph (O) or (P) of section 101(a)(15) not later than 30 days after—

''(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

''(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an appropriate opportunity to supply rebuttal evidence.

''(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary

shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.''.

SEC. ____. REPORTS ON BACKGROUND AND SECURITY CHECKS.

(a) REPEAL OF REPORT REQUIREMENT.—The requirement set out in subsection (c) of section 216 that the Director of the Federal Bureau of Investigation shall submit the report described in such subsection is null and void and shall have no effect.

(b) REPORTS ON BACKGROUND AND SECURITY CHECKS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States, in conjunction with the Director of the Federal Bureau of Investigation, shall submit to the appropriate congressional committees a report on the background and security checks conducted by the Federal Bureau of Investigation.

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

(A) a description of the background and security check program;

(B) an analysis of resources devoted to the name check program, including personnel and support;

(C) a statistical analysis of the background and security check delays associated with different types of name check requests, such as those requested by United States Citizenship and Immigration Services or the Office of Personnel Management, including—

(i) the number of background checks conducted on behalf of requesting agencies, by agency and type of requests (such as naturalization or adjustment of status); and

(ii) the average time spent on each type of background check described under subparagraph (A), including the time from the submission of the request to completion of the check and the time from the initiation of check processing to the completion of the check;

(D) a description of the obstacles that impede the timely completion of such background checks;

(E) a discussion of the steps that the Director of the Federal Bureau of Investigation is taking to expedite background and security checks that have been pending for more than 60 days; and

(F) a plan for the automation of all investigative records related to the name check process.

(3) ANNUAL REPORT ON DELAYED BACKGROUND CHECKS.—Not later than the end of each fiscal year, the Attorney General shall submit to the appropriate congressional committees a report containing, with respect to that fiscal year—

(A) a statistical analysis of the number of background checks processed and pending, including check requests in process at the time of the report and check requests that have been received but are not yet in process;

(B) the average time taken to complete each type of background check;

(C) a description of efforts made and progress by the Attorney General in addressing any delays in completing such background checks; and

(D) a description of the progress that has been made in automating files used in the name check process, including investigative files of the Federal Bureau of Investigation.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

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

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

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

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

SEC. ____. DEPLOYMENT OF TECHNOLOGY TO IMPROVE VISA PROCESSING.

Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following:

''(i) VISA APPLICATION INTERVIEWS.—

"(1) VIDEOCONFERENCING.—For purposes of subsection (h), the term 'in person interview' includes an interview conducted by videoconference or similar technology after the date on which the Secretary of State, in consultation with the Secretary of Homeland Security, certifies to the appropriate committees of Congress that security measures and audit mechanisms have been implemented to ensure that biometrics collected for a visa applicant during an interview using videoconference or similar technology are those of the visa applicant.

"(2) MOBILE VISA INTERVIEWS.—The Secretary of State is authorized to carry out a pilot program to conduct visa interviews using mobile teams of consular officials after the date on which the Secretary of State, in consultation with Secretary of Homeland Security, certifies to the appropriate committees of Congress that such a pilot program may be carried out without jeopardizing the integrity of the visa interview process or the safety and security of consular officers.

"(3) APPROPRIATE COMMITTEES OF CONGRESS.—In this subsection the term 'appropriate committees of Congress' means—

"(A) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate; and

"(B) the Committee on Foreign Affairs, Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives.".

SEC. ____. ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS FOR HIGH VOLUME PORTS.

Subject to the availability of appropriations, before the end of fiscal year 2008 the Secretary of Homeland Security shall employ not less than an additional 200 Customs and Border Protection officers to address staff shortages at the 20 United States international airports with the highest number of foreign visitors arriving annually, as determined pursuant to the most recent data collected by the United States Customs and Border Protection available on the date of the enactment of this Act.

SEC. ____. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ENGLISH PROFICIENCY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(1) the needs of citizens and lawful permanent residents of the United States whose native language

is not English to obtain English language and literacy proficiency;

(2) the estimated costs to the public and private sector resulting from those residents of the United States who lack English language proficiency; and

(3) the estimated costs of operating English language acquisition programs in the public and private sector for those residents of the United States who lack English language proficiency.

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall include—

(1) an inventory of all existing Federal programs designed to improve English language and literacy acquisition for adult citizens and lawful permanent residents of the United States, including—

(A) a description of the purpose of each such program;

(B) a summary of the Federal expenditures for each such program during fiscal years 2002 through 2006;

(C) data on the participation rates of individuals within each such program and those who have expressed an interest in obtaining English instruction but have been unable to participate in existing programs;

(D) a summary of evaluations and performance reviews of the effectiveness and sustainability of each such program; and

(E) a description of the coordination of Federal programs with private and nonprofit programs;

(2) the identification of model programs at the Federal, State, and local level with demonstrated effectiveness in helping adult citizens and lawful permanent residents of the United States gain English language and literacy proficiency;

(3) a summary of funding for State and local programs that support improving the English language proficiency and literacy of citizens and lawful permanent residents of the United States;

(4) a summary of the costs incurred and benefits received by Federal, State, and local governments in serving citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for foreign language translators;

(B) the production of documents in multiple languages; and

(C) compliance with Executive Order 13166;

(5) an analysis of the costs incurred by businesses that employ citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for English training and foreign language translation;

(B) an estimate of lost productivity; and

(C) costs for providing English training to employees;

(6) the number of lawful permanent residents who are eligible to naturalize as citizens of the United States; and

(7) recommendations regarding the most cost-effective actions the Federal government could take to assist citizens and lawful permanent residents of the United States to quickly learn English.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under this section to—

(1) the Committee on Health, Education, Labor, and Pensions of the Senate;

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

(3) the Committee on Education and Labor of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2008 and 2009 to carry out this section.

SEC. ___. REPEAL OF ENGLISH LEARNING PROGRAM.

The requirements of section 711 are null and void and such section shall have no effect.

SEC. ___. REPEAL OF AUTHORIZATION OF ADDITIONAL PORTS OF ENTRY.

The requirements of the first section 104 (relating to ports entry) are null and void and such section shall have no effect.

SEC. ___. LIMITATION ON SECURE COMMUNICATION REQUIREMENT.

Notwithstanding section 123, the Secretary may develop and implement the plan described in such section only subject to the availability of appropriations for such purpose.

SEC. ___. DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.

Notwithstanding clause (ii) of subsection (e)(6)(E) of the first section 601 (included in title IV relating to non-

immigrants in the United States previously in unlawful status), the fees collected under subparagraph (C) of subsection (e)(6) of such section 601 shall be deposited in the State Impact Assistance Account established under the first subsection (x) (relating to the State Impact Assistance Account) of section 286 of the Immigration and Nationality Act, as added by subsection (b) of the first section 402 (relating to admission of nonimmigrant workers), and used for the purposes described in such section 286(x).

SEC. ___. ADDITIONAL REQUIREMENTS FOR THE BORDER PATROL TRAINING CAPACITY REVIEW.

(a) ADDITIONAL COMPONENT OF REVIEW.—The review conducted under subsection (a) of section 128 shall include an evaluation of the positive and negative impacts of privatizing border patrol training, including an evaluation of the impact of privatization on the quality, morale, and consistency of border patrol agents.

(b) CONSIDERATIONS.—In conducting the review under subsection (a) of section 128, the Comptroller General of the United States shall consider—

(1) the report by the Government Accountability Office entitled ''Homeland Security: Information on Training New Border Patrol Agents'' and dated March 30, 2007;

(2) the ability of Federal providers of border patrol training, as compared to private providers of similar training, to incorporate time-sensitive changes based on the needs of an agency or changes in the law;

(3) the ability of a Federal agency, as compared to a private entity, to defend the Federal agency or private entity, as applicable, from lawsuits involving the nature, quality, and consistency of law enforcement training; and

(4) whether any other Federal training would be more appropriate and cost efficient for privatization than basic border patrol training.

(c) CONSULTATION.—In conducting the review under subsection (a) of section 128, the Comptroller General of the United States shall consult with—

(1) the Secretary of Homeland Security;

(2) the Commissioner of the Bureau of Customs and Border Protection; and

(3) the Director of the Federal Law Enforcement Training Center.

SEC. ____. Y–2B VISA ALLOCATION BETWEEN THE FIRST AND SECOND HALVES OF EACH FISCAL YEAR.

(a) NUMERICAL LIMITATIONS.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)),

as amended by section 409(1), is further amended in subparagraph (D) by striking ''101(a)(15)(Y)(ii)(II)'' and inserting ''101(a)(15)(Y)(ii)''.

(b) TECHNICAL CORRECTION.—

(1) REPEAL.—The amendment made by paragraph (3) of section 409 shall be null and void and shall have no effect.

(2) CORRECTION.—Paragraph (10)(A) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by paragraph (2) of section 409, is amended by striking ''an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007.'' and inserting ''an alien who has been present in the United States as an H–2B nonimmigrant during any 1 of 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved. Such alien shall be considered a returning worker.''.

(c) ALLOCATION.—Paragraph (11) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409(2), is amended—

(1) by inserting ''(A)'' before ''The''; and

(2) by adding at the end the following:

''(B) The numerical limitations under paragraph (1)(D) shall be allocated for each fiscal year to ensure that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 101(a)(15)(Y)(ii) during the first 6 months of such fiscal year is not greater than 50 percent of the total number of such visas available for that fiscal year.''.

SEC. ____. H–2A STATUS FOR FISH ROE PROCESSORS AND TECHNICIANS.

Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by inserting ''for employment as a fish roe processor or fish roe technician or'' before ''to perform agricultural labor or services''.

SEC. ____. AUTHORITY FOR ALIENS WITH PROBATIONARY Z NONIMMIGRANT STATUS TO SERVE IN THE ARMED FORCES.

An alien who files an application for Z nonimmigrant status shall under the first section 601 (included in title

IV relating to nonimmigrants in the United States previously in unlawful status), upon submission of any evidence required under paragraphs (f) and (g) of such section 601 and after the Secretary of Homeland Security has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible shall be eligible to serve as a member of the Armed Forces of the United States.

SEC. ____. CONSULTATION WITH CONGRESS.

Notwithstanding subsection (a) of the first section 1 (relating to effective date triggers), the certification by the Secretary of Homeland Security under such subsection (a) shall be prepared in consultation with the Comptroller General, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives.

SEC. ____. ESTABLISHMENT OF A CITIZENSHIP AND IMMIGRATION SERVICES OFFICE IN FAIRBANKS, ALASKA.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Director for United States Citizenship and Immigration Services, shall establish an office

under the jurisdiction of the Director in Fairbanks, Alaska, to provide citizenship and immigration services.

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

SEC. ___. PILOT PROGRAM RELATED MEDICAL SERVICES IN UNDERSERVED AREAS.

Clause (iii) of section 214(l)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1184(l)), as amended by section 425(b)(1), is amended by striking subclause (I) and inserting the following:

"(I) with respect to a State, for the first fiscal year of the pilot program conducted under this paragraph, the greater of—

"(aa) 15; or

"(bb) the number of the waivers received by the State in the previous fiscal year;".

SEC. ___. ESTABLISHMENT OF AN ADDITIONAL UNITED STATES ATTORNEY OFFICE AND AN ADDITIONAL IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.

(a) ESTABLISHMENT OF A SATELLITE UNITED STATES ATTORNEY OFFICE IN ST. GEORGE, UTAH.—The

Attorney General, acting through the United States Attorney for the District of Utah, shall establish a satellite office under the jurisdiction of the United States Attorney for the District of Utah in St. George, Utah. The primary function of the satellite office shall be to prosecute and deter criminal activities associated with illegal immigrants.

(b) IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.—

(1) ESTABLISHMENT.—The Secretary of Homeland Security, acting through the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, shall establish an office under the jurisdiction of the Assistant Secretary within the vicinity of the intersection U.S. Highway 191 and U.S. Highway 491 to reduce the flow of illegal immigrants into the interior of the United States.

(2) STAFFING.—The office established under paragraph (1) shall be staffed by 5 full-time employees, of whom—

(A) 3 shall work for the Office of Investigations; and

(B) 2 shall work for the Office of Detention and Removal Operations.

(3) OTHER RESOURCES.—The Assistant Secretary shall provide the office established under paragraph (1) with the resources necessary to accomplish the purposes of this subsection, including office space, detention beds, and vehicles.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $1,100,000 for fiscal year 2008; and

(B) such sums as may be necessary for each of the fiscal years 2009 through 2012.

SEC. ____. INTERNATIONAL REGISTERED TRAVELER PROGRAM.

Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

"(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

"(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including

United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the US-VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

"(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the international registered traveler program. Amounts so credited shall remain available until expended.

"(C) RULEMAKING.—Within 365 days after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

"(D) IMPLEMENTATION.—Not later than 1 year after the date of enactment of the Secure Borders, Economic Opportunity and Immigra-

tion Reform Act of 2007, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US-VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

"(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

"(i) establishing a reasonable cost of enrollment;

"(ii) making program enrollment convenient and easily accessible; and

"(iii) providing applicants with clear and consistent eligibility guidelines.".

SEC. ____. WORKING CONDITIONS FOR Y NONIMMIGRANTS.

Paragraph (1) of subsection (c) of section 218B of the Immigration and Nationality Act, as added by section 403, is amended—

(1) by redesignating subparagraphs (D) through (L) as subparagraphs (E) through (M), respectively; and

(2) by inserting after subparagraph (C), the following:

"(D) WORKING CONDITIONS.—Y nonimmigrants will be provided the same working conditions and benefits as similarly employed United States workers.".

SEC. ___. MATTERS RELATED TO TRIBES.

(a) BORDER SECURITY ON CERTAIN FEDERAL LANDS.—

(1) REPEAL OF REQUIREMENTS.—Subparagraph (B) of section 122(b)(1) shall be null and void and have no effect.

(2) TRAINING REQUIREMENTS.—In addition to the requirements of subparagraphs (A) and (C) of section 122(b), to gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned (as that term is defined in section 122(a), shall provide Federal land resource, sacred sites, and Native American Graves Protection and

Repatriation Act (25 U.S.C. 3001 et seq.) (commonly referred to as NAGPRA) training for U.S. Customs and Border Protection agents dedicated to protected land (as that term is defined in section 122(a)).

(b) BORDER RELIEF GRANT PROGRAM.—

(1) REPEAL OF DEFINITION.—Paragraph (2) of subsection (d) of section 132 shall be null and void and have no effect.

(2) HIGH IMPACT AREA DEFINED.—For the purposes of section 132, the term ''High Impact Area'' means any county or Indian reservation designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United State border and the rise, if any, of criminal activity in that county or Indian reservation; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(c) NATIONAL LAND BORDER SECURITY PLAN.—Notwithstanding subsection (a) of section 134, the Secretary of Homeland Security shall consult with representatives of Tribal law enforcement prior to submitting to Congress the National Land Border Security Plan required by such subsection.

(d) REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.—Notwithstanding paragraph (2) of subsection (c) of section 219, the report required by such subsection shall not include the material described in such paragraph.

SEC. ____. EB–5 REGIONAL CENTER PROGRAM.

Paragraph (3) of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), as redesignated and amended by section 502(b)(3) of this Act, is further amended—

(1) by striking ''2,800'' and inserting ''10,000''; and

(2) by striking ''1,500'' and inserting ''7,500''.

Subtitle B—Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent

SEC. ___1. SHORT TITLE.

This subtitle may be cited as the ''Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act''.

SEC. ___2. PURPOSE.

The purpose of this subtitle is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

SEC. ___3. ESTABLISHMENT OF THE COMMISSION.

(a) IN GENERAL.—There is established the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent (referred to in this subtitle as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 9 members, who shall be appointed not later than 60 days after the date of enactment of this Act, of whom—

(1) 3 members shall be appointed by the President;

(2) 3 members shall be appointed by the Speaker of the House of Representatives, on the joint recommendation of the majority leader of the House of Representatives and the minority leader of the House of Representatives; and

(3) 3 members shall be appointed by the President pro tempore of the Senate, on the joint recommendation of the majority leader of the Senate and the minority leader of the Senate.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) MEETINGS.—

(1) FIRST MEETING.—The President shall call the first meeting of the Commission not later than the latter of—

(A) 60 days after the date of enactment of this Act; or

(B) 30 days after the date of enactment of legislation making appropriations to carry out this subtitle.

(2) SUBSEQUENT MEETINGS.—Except as provided in paragraph (1), the Commission shall meet at the call of the Chairperson.

(e) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve for the life of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act—

(A) to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation to Axis

countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(B) in investigating those facts and circumstances, to review directives of the United States armed forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries of Latin Americans of Japanese descent; and

(2) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(b) REPORT.—Not later than 1 year after the date of the first meeting of the Commission pursuant to section ___3(d)(1), the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under subsection (a)(1) and recommendations described in subsection (a)(2).

SEC. ___5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other

evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal

to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 51 and subchapter

III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) OTHER ADMINISTRATIVE MATTERS.—The Commission may—

(1) enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

(2) enter into contracts to procure supplies, services, and property; and

(3) enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the Commission to perform its duties.

SEC. 7. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle C—Amendments Related to the AgJOBS Act of 2007

SEC. 1. EVIDENCE OF IDENTITY AND WORK AUTHORIZATION.

Clause (iii) of section 274A(c)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(c)(1)(B)), as amended by section 302, is further amended inserting ''or Z-A visa.'' at the end.

SEC. 2. TECHNICAL CORRECTION.

Paragraph (1) of section 218C(c) of the Immigration and Nationality Act, as added by section 404, is amended by striking ''218E, 218F, and 218G'' and inserting ''218D and 218E''.

SEC. 3. H–2A EMPLOYMENT REQUIREMENTS.

(a) TECHNICAL CORRECTION TO REQUIREMENTS FOR MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Subsection (b) of section 218D of the Immigration and Nationality Act, as added by section 404, is amended in the matter preceding paragraph (1) by striking ''218C(b)(2)'' and inserting ''218C(a)''.

(b) LIMITATION ON REQUIRED WAGES.—Paragraph (3) of such section 218D(b) is further amended by striking subparagraph (B) and inserting the following:

> ''(B) LIMITATION.—Effective on the date of the enactment of section 404 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.''.

(c) RANGE PRODUCTION OF LIVESTOCK.—Section 218D of the Immigration and Nationality Act, as added

by section 404, is amended by striking subsection (e) and inserting the following:

"(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218C, or section 218E shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.".

(d) EVIDENCE OF NONIMMIGRANT STATUS.—Such section 218D is further amended by striking subsection (f).

SEC. 4. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

(a) IDENTIFICATION DOCUMENT.—Paragraph (2) of subsection (g) of section 218E of the Immigration and Nationality Act, as added by section 404, is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) The document shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated.

"(C) The document shall—

"(i) be compatible with other databases of the Secretary for the purpose of

excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States;

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses;

"(iii) shall, during the alien's authorized period of admission as an H–2A nonimmigrant, serve as a valid entry document for the purpose of applying for admission to the United States—

"(I) instead of a passport and visa if the alien—

"(aa) is a national of a foreign territory contiguous to the United States; and

"(bb) is applying for admission at a land border port of entry; or

"(II) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

"(iv) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

"(v) shall be issued to the H–2A nonimmigrant by the Secretary promptly after such alien's admission to the United States as an H–2A nonimmigrant and reporting to the employer's worksite under or, at the discretion of the Secretary, may be issued by the Secretary of State at a consulate instead of a visa.".

(b) SPECIAL RULES.—Such section 218E is further amended by striking subsection (i) and inserting the following:

"(i) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDER OR GOAT HERDERS.—Notwithstanding any other provision of this Act, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder or goat herder—

"(1) may be admitted for a period of up to 3 years;

"(2) shall be subject to readmission; and

"(3) shall not be subject to the requirements of subsection (h)(4).".

"(j) SPECIAL RULES FOR ALIENS EMPLOYED AS DAIRY WORKERS.—Notwithstanding any other provision of this Act, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a dairy worker—

"(1) may be admitted for a period of up to 3 years;

"(2) may not be extended beyond 3 years;

"(3) shall not be subject to the requirements of subsection (h)(4)(A); and

"(4) shall not after such 3 year period has expired be readmitted to the United States as an H-2A or Y-1 worker.".

SEC. 5. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

Paragraph (7) of section 218F(c) of the Immigration and Nationality Act, as added by section 404, is amended by striking subparagraph (C).

SEC. 6. DEFINITIONS.

(a) SEASONAL.—Section 218G of the Immigration and Nationality Act, as added by section 404, is amended by striking paragraph (11) and inserting the following:

"(11) SEASONAL.—

"(A) IN GENERAL.—The term 'seasonal', with respect to the performance of labor, means that the labor—

"(i) ordinarily pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

"(ii) because of the nature of the labor, cannot be continuous or carried on throughout the year.

"(B) EXCEPTION.—Labor performed on a dairy farm or on a horse farm shall be considered to be seasonal labor."

(b) CONFORMING AMENDMENT.—Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), as amended by subsection (c) of section 404, is further amended, by striking "dairy farm," and inserting "dairy farm or horse farm,".

SEC. 7. ADMISSION OF AGRICULTURAL WORKERS.

(a) LIMITATION ON ACCESS TO INFORMATION.—Subsection (d) of section 214A of the Immigration and Nationality Act, as added by section 622(b), is amended by striking paragraph (6), and insert the following:

"(6) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as al-

lowed by a court order issued pursuant to section 604.''.

(b) TERMS OF EMPLOYMENT.—Subsection (h)(3)(b) of such section 214A is amended by striking clause (iv) and inserting the following:

''(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted a Z–A visa without just cause, the Secretary shall credit the alien for the number of days of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of subsection (j)(1)(A).''.

(c) RECORD OF EMPLOYMENT.—Subsection (h)(4) of such section 214A is amended by striking subparagraph (B) and inserting the following:

''(B) CIVIL PENALTIES.—

''(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted Z–A nonimmigrant status has failed to provide the record of employment

required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

"(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this subsection.

"(iii) REPORTING REQUIREMENT.—The Secretary shall promulgate regulations requiring an alien granted Z–A nonimmigrant status to file a report by the conclusion of the 4-year period beginning on the date of enactment showing that the alien is making satisfactory progress toward complying with the requirements of subsection (j)(1)(A).".

(d) TERMINATION OF A GRANT OF Z–A VISA.—Subsection (i) of such section 214A is amended by striking paragraph (3).

(e) ADJUSTMENT TO PERMANENT RESIDENCE.—Paragraph (1) of subsection (j) of such section 214A is

amended by striking subparagraphs (C) and (D) and inserting the following:

"(C) APPLICATION PERIOD.—Not later than 8 years after the date of the enactment of the AgJOBS Act of 2007, the alien must—

"(i) apply for adjustment of status; or

"(ii) change status to Z nonimmigrant status pursuant to section 601(l)(1)(B) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, provided that the alien also complies with the requirements for second renewal described in section 601(k)(2) of such Act, except for sections 601(k)(2)(B)(i) and (iii).

"(D) FINE.—The alien pays to the Secretary a fine of $400.".

(f) ENGLISH LANGUAGE.—Paragraph (6) of such subsection (j) is amended by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Not later than the date on which a Z–A nonimmigrant's status is adjusted or is renewed under section 601(l)(1)(B), a Z–A nonimmigrant who is 18 years of age or older must pass the naturaliza-

tion test described in paragraphs (1) and (2) of section 312(a).''.

(g) ELIGIBILITY FOR LEGAL SERVICES.—Such section 214A is amended by striking subsection (m) and inserting the following:

''(m) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for a Z–A visa under subsection (d) or an adjustment of status under subsection (j).''.

SEC. 8. EFFECTIVE DATE.

Subsection (a) of section 1 in the material preceding paragraph (1) shall be deemed to read as follows:

(a) IN GENERAL.—With the exception of the probationary benefits conferred by section 601(h) of this Act, section 214A(d) of the Immigration and Nationality Act, as added by section 622, the provisions of subtitle C of title IV, and the admission of aliens under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that adjust the current status of any individual who

is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence, shall become effective on the date that the Secretary submits a written certification to the President and the Congress, based on analysis by and in consultation with the Comptroller General, that each of the following border security and other measures are established, funded, and operational: