

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:

1 At the end of the bill, add the following:

2 **TITLE _____—NONIMMIGRANTS IN**
3 **THE UNITED STATES PRE-**
4 **VIOUSLY IN UNLAWFUL STA-**
5 **TUS**

6 **Subtitle A—Z Nonimmigrants**

7 **SEC. __00. REPEAL OF TITLE VI.**

8 Title VI of this Act is repealed and the amendments

9 made by title VI of this Act are null and void.

1 **SEC. 01. Z NONIMMIGRANTS.**

2 (a) IN GENERAL.—Notwithstanding section 244(h)
3 of the Immigration and Nationality Act (8 U.S.C.
4 1254a(h)), the Secretary may permit an alien, or a de-
5 pendent of such alien, described in this section, to remain
6 lawfully in the United States under the conditions set
7 forth in this title.

8 (b) ESTABLISHMENT OF Z NONIMMIGRANT CAT-
9 EGORY.—Section 101(a)(15) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1101(a)(15)) is amended by insert-
11 ing at the end the following:

12 “(Z) subject to title ____ of the Secure
13 Borders, Economic Opportunity and Immigra-
14 tion Reform Act of 2007, an alien who—

15 “(i) is physically present in the
16 United States, has maintained continuous
17 physical presence in the United States
18 since January 1, 2007, is employed, and
19 seeks to continue performing labor, serv-
20 ices, or education;

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

1 “(I) is the spouse or parent (65
2 years of age or older) of an alien de-
3 scribed in clause (i); or

4 “(II) was, within 2 years of the
5 date on which the Secure Borders,
6 Economic Opportunity and Immigra-
7 tion Reform Act of 2007 was intro-
8 duced in the Senate, the spouse of an
9 alien who is described in clause (i) or
10 is eligible for such classification, if—

11 “(aa) the termination of the
12 relationship with such spouse was
13 connected to domestic violence;
14 and

15 “(bb) such spouse has been
16 battered or subjected to extreme
17 cruelty by such alien; or

18 “(iii) is under 18 years of age at the
19 time of application for nonimmigrant sta-
20 tus under this subparagraph, is physically
21 present in the United States, has main-
22 tained continuous physical presence in the
23 United States since January 1, 2007, and
24 was born to or legally adopted by at least

1 one parent who is at the time of applica-
2 tion described in clause (i) or (ii).”.

3 (c) PRESENCE IN THE UNITED STATES.—

4 (1) IN GENERAL.—The alien shall establish
5 that the alien was not present in lawful status in the
6 United States on January 1, 2007, under any classi-
7 fication described in section 101(a)(15) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1101(a)(15))
9 or any other immigration status made available
10 under a treaty or other multinational agreement that
11 has been ratified by the Senate.

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

17 (d) OTHER CRITERIA.—

18 (1) GROUNDS OF INELIGIBILITY.—

19 (A) IN GENERAL.—An alien is ineligible
20 for Z nonimmigrant status if the Secretary de-
21 termines that the alien—

22 (i) is inadmissible to the United
23 States under section 212(a) of the Immi-
24 gration and Nationality Act (8 U.S.C.
25 1182(a)), provided that to be deemed inad-

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

4 (ii) subject to subparagraph (B), is
5 subject to the execution of an outstanding
6 administratively final order of removal, de-
7 portation, or exclusion;

8 (iii) subject to subparagraph (B), is
9 described in or is subject to section
10 241(a)(5) of such Act (8 U.S.C.
11 1231(a)(5));

12 (iv) has ordered, incited, assisted, or
13 otherwise participated in the persecution of
14 any person on account of race, religion, na-
15 tionality, membership in a particular social
16 group, or political opinion;

17 (v) is an alien—

18 (I) for whom there are reasonable
19 grounds for believing that the alien
20 has committed a serious criminal of-
21 fense (as described in section 101(h)
22 of such Act (8 U.S.C. 1101(h))) out-
23 side the United States before arriving
24 in the United States; or

1 (II) for whom there are reason-
2 able grounds for regarding the alien
3 as a danger to the security of the
4 United States;

5 (vi) has been convicted of—

6 (I) a felony;

7 (II) an aggravated felony (as de-
8 fined in section 101(a)(43) of such
9 Act);

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

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

15 (vii) has entered or attempted to enter
16 the United States illegally on or after Jan-
17 uary 1, 2007; or

18 (viii) is an applicant for Z-2 non-
19 immigrant status, or is under 18 years of
20 age and is an applicant for Z-3 non-
21 immigrant status, and the principal Z-1
22 nonimmigrant or Z-1 nonimmigrant status
23 applicant is ineligible.

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

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

7 (C) CONSTRUCTION.—Nothing in this
8 paragraph shall require the Secretary to com-
9 mence removal proceedings against an alien.

10 (2) GROUNDS OF INADMISSIBILITY.—

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

14 (i) paragraphs (6)(A)(i) (with respect
15 to an alien present in the United States
16 without being admitted or paroled before
17 the date of application, but not with re-
18 spect to an alien who has arrived in the
19 United States on or after January 1,
20 2007), (6)(B), (6)(C)(i), (6)(C)(ii), (6)(D),
21 (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I),
22 and (10)(B) of section 212(a) of the Immi-
23 gration and Nationality Act (8 U.S.C.
24 1182(a)) shall not apply, but only with re-

1 spect to conduct occurring or arising be-
2 fore the date of application;

3 (ii) the Secretary may not waive—

4 (I) subparagraph (A), (B), (C),
5 (D)(ii), (E), (F), (G), (H), or (I) of
6 section 212(a)(2) of such Act (relat-
7 ing to criminals);

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

11 (III) with respect to an applica-
12 tion for Z nonimmigrant status, sec-
13 tion 212(a)(6)(C)(i) of such Act;

14 (IV) paragraph (6)(A)(i) of sec-
15 tion 212(a) of such Act (with respect
16 to any entries occurring on or after
17 January 1, 2007);

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

20 (VI) subparagraph (A), (C), or
21 (D) of section 212(a)(10) of such Act
22 (relating to polygamists, child abduc-
23 tors, and unlawful voters); and

24 (iii) the Secretary may, in the Sec-
25 retary's discretion, waive the application of

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

6 (B) CONSTRUCTION.—Nothing in this
7 paragraph shall be construed as affecting the
8 authority of the Secretary other than under this
9 paragraph to waive the provisions of section
10 212(a) of such Act.

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

15 (1) ELIGIBILITY.—The alien does not fall with-
16 in a class of aliens ineligible for Z nonimmigrant
17 status listed under subsection (d)(1).

18 (2) ADMISSIBILITY.—The alien is not inadmis-
19 sible as a nonimmigrant to the United States under
20 section 212 of the Immigration and Nationality Act
21 (8 U.S.C. 1182), except as provided in subsection
22 (d)(2) of this section, regardless of whether the alien
23 has previously been admitted to the United States.

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

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

8 (B) be physically present in the United
9 States on the date of application for Z non-
10 immigrant status; and

11 (C) be, on January 1, 2007, and on the
12 date of application for Z nonimmigrant status,
13 not present in lawful status in the United
14 States under any classification described in sec-
15 tion 101(a)(15) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1101(a)(15)) or any other
17 immigration status made available under a trea-
18 ty or other multinational agreement that has
19 been ratified by the Senate.

20 (4) EMPLOYMENT.—An alien seeking Z–1 non-
21 immigrant status must be employed in the United
22 States on the date of filing of the application for Z–
23 1 nonimmigrant status.

24 (5) FEES AND PENALTIES.—

25 (A) PROCESSING FEES.—

1 (i) IN GENERAL.—An alien making an
2 initial application for Z nonimmigrant sta-
3 tus shall be required to pay a processing
4 fee in an amount sufficient to recover the
5 full cost of adjudicating the application,
6 but not more than \$1,500 for a single Z
7 nonimmigrant.

8 (ii) FEE FOR EXTENSION APPLICA-
9 TION.—An alien applying for extension of
10 the alien's Z nonimmigrant status shall be
11 required to pay a processing fee in an
12 amount sufficient to cover administrative
13 and other expenses associated with proc-
14 essing the extension application, but not
15 more than \$1,500 for a single Z non-
16 immigrant.

17 (B) PENALTIES.—

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

23 (ii) DERIVATIVE STATUS.—An alien
24 making an initial application for Z-1 non-
25 immigrant status shall be required to pay

1 a \$500 penalty for each alien seeking Z-
2 nonimmigrant status or Z-3 non-
3 immigrant status derivative to such appli-
4 cant for Z-1 nonimmigrant status.

5 (iii) CHANGE OF Z NONIMMIGRANT
6 CLASSIFICATION.—An alien who is a Z-2
7 nonimmigrant or Z-3 nonimmigrant and
8 who has not previously been a Z-1 non-
9 immigrant, and who changes status to that
10 of a Z-1 nonimmigrant, shall in addition
11 to processing fees be required to pay the
12 initial application penalties applicable to
13 Z-1 nonimmigrants.

14 (C) STATE IMPACT ASSISTANCE FEE.—In
15 addition to any other amounts required to be
16 paid under this subsection, an alien making an
17 initial application for Z-1 nonimmigrant status
18 shall be required to pay a State impact assist-
19 ance fee equal to \$500.

20 (D) DEPOSIT AND SPENDING OF FEES.—
21 The processing fees under subparagraph (A)
22 shall be deposited and remain available until ex-
23 pended as provided by subsections (m) and (n)
24 of section 286 of the Immigration and Nation-
25 ality Act (8 U.S.C. 1356).

1 (E) DEPOSIT, ALLOCATION, AND SPEND-
2 ING OF PENALTIES.—

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

8 (ii) DEPOSIT OF STATE IMPACT AS-
9 SISTANCE FUNDS.—The funds under sub-
10 paragraph (C) shall be deposited and re-
11 main available as provided by subsection
12 (x) of such section 286.

13 (6) HOME APPLICATION.—

14 (A) IN GENERAL.—An alien granted pro-
15 bationary status under subsection (h) shall not
16 be eligible for Z-1, Z-2, Z-A, or adult Z-A de-
17 pendent nonimmigrant status until the alien
18 has completed the following home application
19 requirements:

20 (i) SUBMISSION OF SUPPLEMENTAL
21 CERTIFICATION.—An alien awarded proba-
22 tionary status who seeks Z-1, Z-2, Z-A,
23 or adult Z-A dependent nonimmigrant sta-
24 tus shall, within 2 years of being awarded
25 a secure ID card under subsection (j), per-

1 fect the alien’s application for such non-
2 immigrant status at a United States con-
3 sular office by submitting a supplemental
4 certification in person in accordance with
5 the requirements of this subparagraph.

6 (ii) CONTENTS OF SUPPLEMENTAL
7 CERTIFICATION.—An alien in probationary
8 status who is seeking a Z–1, Z–2, Z–A, or
9 adult Z–A dependent nonimmigrant status
10 shall certify, in addition to any other cer-
11 tifications specified by the Secretary, that
12 the alien has during the period of the
13 alien’s probationary status remained con-
14 tinuously employed in accordance with the
15 requirements of subsection (m) and has
16 paid all tax liabilities owed by the alien
17 pursuant to the procedures set forth in
18 section 602(h). The probationary status of
19 an alien making a false certification under
20 this subparagraph shall be terminated pur-
21 suant to subsection (o)(1)(G).

22 (iii) PRESENTATION OF SECURE ID
23 CARD.—The alien shall present the alien’s
24 secure ID card at the time the alien sub-
25 mits the supplemental certification under

1 clause (i) at the United States consular of-
2 fice. The alien's secure ID card shall be
3 marked or embossed with a designation as
4 determined by the Secretary of State and
5 the Secretary of Homeland Security to dis-
6 tinguish the card as satisfying all require-
7 ments for Z-1, Z-2, Z-A, or adult Z-A
8 dependent nonimmigrant status.

9 (iv) PLACE OF APPLICATION.—Unless
10 otherwise directed by the Secretary of
11 State, an alien in probationary status who
12 is seeking Z-1, Z-2, Z-A, or adult Z-A
13 dependent nonimmigrant status shall file
14 the supplemental certification described in
15 clause (ii) at a consular office in the alien's
16 country of origin. A consular office in a
17 country that is not the alien's country of
18 origin as a matter of discretion may, or at
19 the direction of the Secretary of State
20 shall, accept a supplemental certification
21 from such an alien.

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

1 requirements of this paragraph shall be termi-
2 nated in accordance with subsection (o)(1)(G).

3 (C) EXEMPTION.—Subparagraph (A) shall
4 not apply to an alien who, on the date on which
5 the alien is granted a secure ID card under
6 subsection (j), is exempted from the employ-
7 ment requirements under subsection
8 (m)(1)(B)(iii).

9 (D) FAILURE TO ESTABLISH LAWFUL AD-
10 MISSION TO THE UNITED STATES.—Unless ex-
11 empted under subparagraph (C), an alien in
12 probationary status who is seeking Z-1, Z-2,
13 Z-A, or adult Z-A dependent nonimmigrant
14 status who fails to depart and reenter the
15 United States in accordance with subparagraph
16 (A) may not be issued a Z-1, Z-2, Z-A, or
17 adult Z-A dependent nonimmigrant visa under
18 this section.

19 (E) DEPENDENTS.—An alien in proba-
20 tionary status who is seeking Z-3 or minor Z-
21 A dependent nonimmigrant status shall be
22 awarded such status upon satisfaction of the re-
23 quirements set forth in subparagraph (A) by
24 the principal Z-1 or Z-A nonimmigrant. An
25 alien in probationary status who is seeking Z-

1 3 or minor Z–A dependent nonimmigrant status
2 and whose principal Z–1 or Z–A nonimmigrant
3 fails to satisfy the requirements of subpara-
4 graph (A) may not be issued a Z–3 or minor
5 Z–A dependent nonimmigrant visa under this
6 section unless the principal Z–1 alien is exempt-
7 ed under subparagraph (C).

8 (7) INTERVIEW.—An applicant for Z non-
9 immigrant status shall appear to be interviewed.

10 (8) MILITARY SELECTIVE SERVICE.—The alien
11 shall establish that if the alien is within the age pe-
12 riod required under the Military Selective Service
13 Act (50 U.S.C. App. 451 et seq.) that such alien has
14 registered under that Act.

15 (f) APPLICATION PROCEDURES.—

16 (1) IN GENERAL.—The Secretary of Homeland
17 Security shall prescribe by notice in the Federal
18 Register, in accordance with the procedures de-
19 scribed in section 610, the procedures for an alien
20 in the United States to apply for Z nonimmigrant
21 status and the evidence required to demonstrate eli-
22 gibility for such status.

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

1 procedures established under this subsection, shall
2 accept applications from aliens for Z nonimmigrant
3 status for a period of 1 year starting the first day
4 of the first month beginning not more than 180 days
5 after the date of the enactment of this Act. If, dur-
6 ing the 1-year initial period for the receipt of appli-
7 cations for Z nonimmigrant status, the Secretary de-
8 termines that additional time is required to register
9 applicants for Z nonimmigrant status, the Secretary
10 may, in the Secretary's discretion, extend the period
11 for accepting applications by not more than 1 year.

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

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

20 (g) CONTENT OF APPLICATION FILED BY ALIEN.—

21 (1) APPLICATION FORM.—The Secretary shall
22 create an application form that an alien shall be re-
23 quired to complete as a condition of obtaining proba-
24 tionary status.

25 (2) APPLICATION INFORMATION.—

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

4 (i) information concerning the alien’s
5 physical and mental health;

6 (ii) complete criminal history, includ-
7 ing all arrests and dispositions;

8 (iii) gang membership or renunciation
9 of gang affiliation;

10 (iv) immigration history;

11 (v) employment history; and

12 (vi) claims to United States citizen-
13 ship.

14 (B) STATUS.—An alien applying for Z
15 nonimmigrant status shall be required to speci-
16 fy on the application whether the alien ulti-
17 mately seeks to be awarded Z-1, Z-2, or Z-3
18 nonimmigrant status.

19 (3) SECURITY AND LAW ENFORCEMENT BACK-
20 GROUND CHECKS.—

21 (A) SUBMISSION OF FINGERPRINTS.—The
22 Secretary may not award Z nonimmigrant sta-
23 tus unless the alien submits fingerprints and
24 other biometric data in accordance with proce-
25 dures established by the Secretary.

1 (B) BACKGROUND CHECKS.—The Sec-
2 retary shall utilize fingerprints and other bio-
3 metric data provided by the alien to conduct ap-
4 propriate background checks of such alien to
5 search for criminal, national security, or other
6 law enforcement actions that would render the
7 alien ineligible for classification under this sec-
8 tion.

9 (h) TREATMENT OF APPLICANTS.—

10 (1) IN GENERAL.—An alien who files an appli-
11 cation for Z nonimmigrant status, upon submission
12 of any evidence required under subsections (f) and
13 (g) and after the Secretary has conducted appro-
14 priate background checks, to include name and fin-
15 gerprint checks, that have not by the end of the next
16 business day produced information rendering the ap-
17 plicant ineligible—

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

21 (B) may, in the Secretary’s discretion, re-
22 ceive advance permission to re-enter the United
23 States pursuant to existing regulations gov-
24 erning advance parole;

1 (C) may not be detained for immigration
2 purposes, determined inadmissible or deport-
3 able, or removed pending final adjudication of
4 the alien's application, unless the alien is deter-
5 mined to be ineligible for Z nonimmigrant sta-
6 tus; and

7 (D) may not be considered an unauthor-
8 ized alien (as defined in section 274A of the
9 Immigration and Nationality Act (8 U.S.C.
10 1324a)) unless employment authorization under
11 subparagraph (A) is denied.

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

17 (3) CONSTRUCTION.—Nothing in this section
18 shall be construed to limit the Secretary's authority
19 to conduct any appropriate background and security
20 checks subsequent to issuance of evidence of proba-
21 tionary benefits under paragraph (4).

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

1 Secretary may by regulation establish procedures for
2 the issuance of documentary evidence of proba-
3 tionary status and, except as provided herein, the
4 conditions under which such documentary evidence
5 expires, terminates, or is renewed. All documentary
6 evidence of probationary benefits shall expire not
7 later than 6 months after the date on which the Sec-
8 retary begins to issue secure ID cards under sub-
9 section (j).

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

19 (6) DURING CERTAIN PROCEEDINGS.—Notwith-
20 standing any provision of the Immigration and Na-
21 tionality Act, if the Secretary determines that an
22 alien who is in removal proceedings is prima facie el-
23 igible for Z nonimmigrant status, then the Secretary
24 shall affirmatively communicate such determination
25 to the immigration judge. The immigration judge

1 shall then terminate or administratively close such
2 proceedings and permit the alien a reasonable oppor-
3 tunity to apply for such classification.

4 (i) ADJUDICATION OF APPLICATION FILED BY
5 ALIEN.—

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

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

12 (A) PRESUMPTIVE DOCUMENTS.—A Z
13 nonimmigrant or an applicant for Z non-
14 immigrant status may presumptively establish
15 satisfaction of each required period of presence,
16 employment, or study by submitting records to
17 the Secretary that demonstrate such presence,
18 employment, or study, and that the Secretary
19 verifies have been maintained by the Social Se-
20 curity Administration, the Internal Revenue
21 Service, or any other Federal, State, or local
22 government agency.

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

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

6 (i) consistent with all otherwise appli-
7 cable laws, including laws governing pri-
8 vacy, provide documentation to an alien
9 upon request to satisfy the documentary
10 requirements of this paragraph; or

11 (ii) notwithstanding any other provi-
12 sion of law, including section 6103 of the
13 Internal Revenue Code of 1986, provide
14 verification to the Secretary of documenta-
15 tion offered by an alien as evidence of—

16 (I) presence or employment re-
17 quired under this section; or

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

20 (C) OTHER DOCUMENTS.—A Z non-
21 immigrant or an applicant for Z nonimmigrant
22 status who is unable to submit a document de-
23 scribed in subparagraph (A) may establish sat-
24 isfaction of each required period of presence,
25 employment, or study by submitting to the Sec-

1 retary at least 2 other types of reliable docu-
2 ments that provide evidence of employment, in-
3 cluding—

4 (i) bank records;

5 (ii) business records;

6 (iii) employer records;

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

9 (v) remittance records.

10 (D) ADDITIONAL DOCUMENTS.—The Sec-
11 retary may—

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

15 (ii) set such terms and conditions on
16 the use of affidavits as is necessary to
17 verify and confirm the identity of any affi-
18 ant or otherwise prevent fraudulent sub-
19 missions.

20 (3) PAYMENT OF INCOME TAXES.—

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

25 (i) no such tax liability exists;

1 (ii) all outstanding liabilities have
2 been paid; or

3 (iii) the alien has entered into an
4 agreement for payment of all outstanding
5 liabilities with the Internal Revenue Serv-
6 ice.

7 (B) APPLICABLE FEDERAL TAX LIABIL-
8 ITY.—For purposes of subparagraph (A), the
9 term “applicable Federal tax liability” means li-
10 ability for Federal taxes, including penalties
11 and interest, owed for any year during the pe-
12 riod of employment required by subparagraph
13 (D)(i) for which the statutory period for assess-
14 ment of any deficiency for such taxes has not
15 expired.

16 (C) IRS COOPERATION.—The Secretary of
17 the Treasury shall establish rules and proce-
18 dures under which the Commissioner of Inter-
19 nal Revenue shall provide documentation to an
20 alien upon request to establish the payment of
21 all taxes required by this subparagraph.

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

24 (i) no such tax liability exists;

1 (ii) all outstanding liabilities have
2 been met; or

3 (iii) the alien has entered into an
4 agreement for payment of all outstanding
5 liabilities with the Internal Revenue Serv-
6 ice and with the department of revenue of
7 each State to which taxes are owed.

8 (4) BURDEN OF PROOF.—An alien who is ap-
9 plying for a Z nonimmigrant visa under this section
10 shall prove, by a preponderance of the evidence, that
11 the alien has satisfied the requirements of this sec-
12 tion.

13 (5) DENIAL OF APPLICATION.—

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

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

1 plication considered abandoned. Such applica-
2 tion shall be denied and the alien may not file
3 additional applications.

4 (j) SECURE ID CARD EVIDENCING STATUS.—

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

7 (2) FEATURES OF SECURE ID CARD.—Docu-
8 mentary evidence of Z nonimmigrant status—

9 (A) shall be machine-readable, tamper-re-
10 sistant, and shall contain a digitized photo-
11 graph and other biometric identifiers that may
12 be authenticated;

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

16 (C) shall, during the alien’s authorized pe-
17 riod of admission under subsection (k), serve as
18 a valid travel and entry document for the pur-
19 pose of applying for admission to the United
20 States where the alien is applying for admission
21 at a port of entry;

22 (D) may be accepted during the period of
23 its validity by an employer as evidence of em-
24 ployment authorization and identity under sec-
25 tion 274A of the Immigration and Nationality

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

3 (E) shall be issued to the Z nonimmigrant
4 by the Secretary promptly after final adjudica-
5 tion of such alien's application for Z non-
6 immigrant status, except that an alien may not
7 be granted permanent Z nonimmigrant status
8 until all appropriate background checks on the
9 alien are completed to the satisfaction of the
10 Secretary.

11 (k) PERIOD OF AUTHORIZED ADMISSION.—

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

16 (2) EXTENSIONS.—

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

20 (B) REQUIREMENTS.—In order to be eligi-
21 ble for an extension of the initial or any subse-
22 quent period of authorized admission under this
23 paragraph, an alien must satisfy the following
24 requirements:

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

4 (ii) ENGLISH LANGUAGE AND
5 CIVICS.—

6 (I) REQUIREMENT AT FIRST RE-
7 NEWAL.—At or before the time of ap-
8 plication for the first extension of Z
9 nonimmigrant status, an alien who is
10 18 years of age or older must dem-
11 onstrate an attempt to gain an under-
12 standing of the English language and
13 knowledge of United States civics by
14 taking the naturalization test de-
15 scribed in paragraphs (1) and (2) of
16 section 312(a) of the Immigration and
17 Nationality Act (8 U.S.C. 1423(a)) by
18 demonstrating enrollment in or place-
19 ment on a waiting list for English
20 classes.

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

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

9 (III) EXCEPTION.—The require-
10 ments of subclauses (I) and (II) shall
11 not apply to any person who, on the
12 date of the filing of the person's appli-
13 cation for an extension of Z non-
14 immigrant status—

15 (aa) is unable because of
16 physical or developmental dis-
17 ability or mental impairment to
18 meet the requirements of such
19 subclauses;

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

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

1 States for periods totaling at
2 least 15 years.

3 (iii) EMPLOYMENT.—With respect to
4 an extension of Z–1 nonimmigrant status
5 or Z–3 nonimmigrant status, an alien shall
6 demonstrate satisfaction of the employ-
7 ment or study requirements provided in
8 subsection (m) during the alien’s most re-
9 cent period of authorized admission as of
10 the date of application.

11 (iv) FEES.—The alien must pay a
12 processing fee in an amount sufficient to
13 recover the full cost of adjudicating the ap-
14 plication, but not more than \$1,500 for a
15 single Z nonimmigrant.

16 (C) SECURITY AND LAW ENFORCEMENT
17 BACKGROUND CHECKS.—An alien applying for
18 extension of Z nonimmigrant status may be re-
19 quired to submit to a renewed security and law
20 enforcement background check that shall be
21 completed to the satisfaction of the Secretary
22 before such extension may be granted.

23 (D) TIMELY FILING AND MAINTENANCE OF
24 STATUS.—

1 (i) IN GENERAL.—An extension of a
2 period of authorized admission under this
3 paragraph, or a change of status to an-
4 other Z nonimmigrant status under sub-
5 section (l), may not be approved for an ap-
6 plicant who failed to maintain Z non-
7 immigrant status or if such status expired
8 or terminated before the application was
9 filed.

10 (ii) EXCEPTION.—Failure to file be-
11 fore the period of previously authorized ad-
12 mission expired or terminated may be ex-
13 cused in the discretion of the Secretary
14 and without separate application, with any
15 extension granted from the date the pre-
16 viously authorized admission expired, if it
17 is demonstrated at the time of filing
18 that—

19 (I) the delay was due to extraor-
20 dinary circumstances beyond the con-
21 trol of the applicant, and the Sec-
22 retary finds the delay commensurate
23 with the circumstances; and

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

4 (iii) EXEMPTIONS FROM PENALTY
5 AND EMPLOYMENT REQUIREMENTS.—An
6 alien demonstrating extraordinary cir-
7 cumstances under clause (ii), including the
8 spouse of a Z-1 nonimmigrant who has
9 been battered or has been the subject of
10 extreme cruelty perpetrated by the Z-1
11 nonimmigrant, and who is changing to Z-
12 1 nonimmigrant status, may be exempted
13 by the Secretary, in the Secretary's discre-
14 tion, from the requirements under sub-
15 section (m) for a period of up to 180 days;
16 and

17 (E) BARS TO EXTENSION.—Except as pro-
18 vided in subparagraph (D), a Z nonimmigrant
19 shall not be eligible to extend such non-
20 immigrant status if—

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

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

3 (ii) the period of authorized admission
4 of the Z nonimmigrant has been termi-
5 nated for any reason; or

6 (iii) with respect to a Z-2 non-
7 immigrant or a Z-3 nonimmigrant, the
8 principal alien's Z-1 nonimmigrant status
9 has been terminated.

10 (l) CHANGE OF STATUS.—

11 (1) CHANGE FROM Z NONIMMIGRANT STA-
12 TUS.—

13 (A) IN GENERAL.—A Z nonimmigrant may
14 not change status under section 248 of the Im-
15 migration and Nationality Act (8 U.S.C. 1258)
16 to another nonimmigrant status, except another
17 Z nonimmigrant status or status under sub-
18 paragraph (U) of section 101(a)(15) of such
19 Act (8 U.S.C. 1101(a)(15)).

20 (B) CHANGE FROM Z-A STATUS.—A Z-A
21 nonimmigrant may change status to Z non-
22 immigrant status at the time of renewal ref-
23 erenced in section 214A(j)(1)(C) of the Immi-
24 gration and Nationality Act, as added by sec-
25 tion 631.

1 (C) LIMIT ON CHANGES.—A Z non-
2 immigrant may not change status more than
3 one time per 365-day period. The Secretary
4 may, in the Secretary's discretion, waive the ap-
5 plication of this subparagraph to an alien if it
6 is established to the satisfaction of the Sec-
7 retary that application of this subparagraph
8 would result in extreme hardship to the alien.

9 (2) NO CHANGE TO Z NONIMMIGRANT STA-
10 TUS.—A nonimmigrant under the immigration laws
11 may not change status under section 248 of the Im-
12 migration and Nationality Act (8 U.S.C. 1258) to Z
13 nonimmigrant status.

14 (m) EMPLOYMENT.—

15 (1) Z-1 AND Z-3 NONIMMIGRANTS.—

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

19 (B) CONTINUOUS EMPLOYMENT REQUIRE-
20 MENT.—All requirements that an alien be em-
21 ployed or seeking employment for purposes of
22 this title shall not apply to an alien who is
23 under 16 years or over 65 years of age. A Z-
24 1 nonimmigrant or Z-3 nonimmigrant between
25 16 and 65 years of age, or an alien in proba-

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

6 (i) the alien is pursuing a full course
7 of study at an established college, univer-
8 sity, seminary, conservatory, trade school,
9 academic high school, elementary school, or
10 other academic institution or language
11 training program;

12 (ii) the alien is employed while also
13 engaged in study at an established college,
14 university, seminary, conservatory, aca-
15 demic high school, elementary school, or
16 other academic institution or language
17 training program;

18 (iii) the alien cannot demonstrate em-
19 ployment because of a physical or mental
20 disability (as defined under section 3(2) of
21 the Americans with Disabilities Act of
22 1990 (42 U.S.C. 12102(2)) or as a result
23 of pregnancy if such condition is evidenced
24 by the submission of documentation pre-
25 scribed by the Secretary; or

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

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

7 (3) PORTABILITY.—Nothing in this subsection
8 shall be construed to limit the ability of a Z non-
9 immigrant to change employers during the alien's
10 period of authorized admission.

11 (n) TRAVEL OUTSIDE THE UNITED STATES.—

12 (1) IN GENERAL.—An alien who has been
13 issued a secure ID card under subsection (j) and
14 who is in probationary status or is a Z non-
15 immigrant—

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

18 (B) may be readmitted (if otherwise admis-
19 sible) without having to obtain a visa if—

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

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

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

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

9 (3) EFFECT ON PERIOD OF AUTHORIZED AD-
10 MISSION.—Time spent outside the United States
11 under paragraph (1) shall not extend the most re-
12 cent period of authorized admission in the United
13 States under subsection (k).

14 (o) TERMINATION OF BENEFITS.—

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

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

22 (B)(i) the alien is found removable from
23 the United States under section 237 of the Im-
24 migration and Nationality Act (8 U.S.C. 1227);

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

4 (iii) the alien becomes ineligible under sub-
5 section (d)(1);

6 (C) the alien has used documentation
7 issued under this section for unlawful or fraud-
8 ulent purposes;

9 (D) in the case of the spouse or child of
10 an alien applying for a Z nonimmigrant visa, in
11 probationary status, or classified as a Z non-
12 immigrant under this section, the benefits for
13 the principal alien are terminated;

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

18 (F) with respect to an alien in proba-
19 tionary status, the alien's application for Z non-
20 immigrant status is denied; or

21 (G) with respect to an alien awarded pro-
22 bationary status who seeks to become a Z non-
23 immigrant or a Z-A nonimmigrant, the alien
24 fails to complete the home application require-

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

3 (2) DENIAL OF IMMIGRANT VISA OR ADJUST-
4 MENT APPLICATION.—Any application for an immi-
5 grant visa or adjustment of status to lawful perma-
6 nent resident status made under this section by an
7 alien whose Z nonimmigrant status is terminated
8 under paragraph (1) shall be denied.

9 (3) DEPARTURE FROM THE UNITED STATES.—
10 Any alien whose period of authorized admission or
11 probationary benefits is terminated under paragraph
12 (1), as well as the alien's Z-2 nonimmigrant or Z-
13 3 nonimmigrant dependents, shall depart the United
14 States immediately.

15 (4) INVALIDATION OF DOCUMENTATION.—Any
16 documentation that is issued by the Secretary of
17 Homeland Security under subsection (j) or pursuant
18 to subsection (h)(4) to any alien, whose period of au-
19 thorized admission terminates under paragraph (1),
20 shall automatically be rendered invalid for any pur-
21 pose except departure.

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

1 Homeland Security may, for good and sufficient cause, if
2 it appears that the alien was not in fact eligible for status
3 under this section, revoke the alien's status following ap-
4 propriate notice to the alien.

5 (q) DISSEMINATION OF INFORMATION ON Z PRO-
6 GRAM.—During the 2-year period immediately after the
7 issuance of regulations implementing this title, the Sec-
8 retary, in cooperation with entities approved by the Sec-
9 retary, shall broadly disseminate information respecting Z
10 nonimmigrant classification under this section and the re-
11 quirements to be satisfied to obtain such classification.
12 The Secretary shall disseminate information to employers
13 and labor unions to advise them of the rights and protec-
14 tions available to them and to workers who file applica-
15 tions under this section. Such information shall be broadly
16 disseminated, in no fewer than the top 5 principal lan-
17 guages, as determined by the Secretary in the Secretary's
18 discretion, spoken by aliens who would qualify for classi-
19 fication under this section, including to television, radio,
20 and print media to which such aliens would have access.

21 (r) DEFINITIONS.—In this title:

22 (1) Z NONIMMIGRANT.—The term “Z non-
23 immigrant” means an alien admitted to the United
24 States under subparagraph (Z) of section 101(a)(15)
25 of the Immigration and Nationality Act (8 U.S.C.

1 1101(a)(15)), as added by subsection (b). The term
2 does not include aliens granted probationary benefits
3 under subsection (h) or whose applications for non-
4 immigrant status under such subparagraph (Z) have
5 not yet been adjudicated.

6 (2) Z-1 NONIMMIGRANT.—The term “Z-1 non-
7 immigrant” means an alien admitted to the United
8 States under clause (i) of section 101(a)(15)(Z) of
9 the Immigration and Nationality Act, as added by
10 subsection (b).

11 (3) Z-A NONIMMIGRANT.—The term “Z-A non-
12 immigrant” means an alien admitted to the United
13 States under subparagraph (Z-A) of section
14 101(a)(15) of the Immigration and Nationality Act,
15 as added by section 631.

16 (4) Z-2 NONIMMIGRANT.—The term “Z-2 non-
17 immigrant” means an alien admitted to the United
18 States under clause (ii) of section 101(a)(15)(Z) of
19 the Immigration and Nationality Act, as added by
20 subsection (b).

21 (5) Z-3 NONIMMIGRANT.—The term “Z-3 non-
22 immigrant” means an alien admitted to the United
23 States under clause (iii) of section 101(a)(15)(Z) of
24 the Immigration and Nationality Act, as added by
25 subsection (b).

1 **SEC. 02. EARNED ADJUSTMENT FOR Z STATUS ALIENS.**

2 (a) Z-1 NONIMMIGRANTS.—

3 (1) PROHIBITION ON IMMIGRANT VISA.—A Z-1
4 nonimmigrant may not be issued an immigrant visa
5 pursuant to sections 221 and 222 of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1201 and 1202).

7 (2) ADJUSTMENT.—Notwithstanding sub-
8 sections (a) and (c) of section 245 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1255), the status
10 of any Z-1 nonimmigrant may be adjusted by the
11 Secretary to that of an alien lawfully admitted for
12 permanent residence.

13 (3) REQUIREMENTS.—A Z-1 nonimmigrant
14 may adjust status to that of an alien lawfully admit-
15 ted for permanent residence upon satisfying, in addi-
16 tion to all other requirements imposed by law, in-
17 cluding the merit requirements set forth in section
18 203(b)(1)(A) of the Immigration and Nationality
19 Act, as amended by section 502, the following re-
20 quirements:

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

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

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

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

8 (D) FEES AND PENALTIES.—In addition to
9 the fees payable to the Secretary of Homeland
10 Security and the Secretary of State in connec-
11 tion with the filing of an immigrant petition
12 and application for adjustment of status, a Z-
13 1 nonimmigrant who is the head of household
14 shall pay a \$4,000 penalty at the time of sub-
15 mission of any immigrant petition on the alien's
16 behalf, regardless of whether the alien submits
17 such petition on the alien's own behalf or the
18 alien is the beneficiary of an immigrant petition
19 filed by another party.

20 (b) Z-2 AND Z-3 NONIMMIGRANTS.—

21 (1) RESTRICTION ON VISA ISSUANCE OR AD-
22 JUSTMENT.—An application for an immigrant visa
23 or for adjustment of status to that of an alien law-
24 fully admitted for permanent residence of a Z-2
25 nonimmigrant or a Z-3 nonimmigrant who is under

1 18 years of age may not be approved before the ad-
2 justment of status of the alien's principal Z-1 non-
3 immigrant.

4 (2) ADJUSTMENT OF STATUS.—

5 (A) ADJUSTMENT.—Notwithstanding sub-
6 sections (a) and (c) of section 245 of the Immi-
7 gration and Nationality Act (8 U.S.C. 1255),
8 the status of any Z-2 nonimmigrant or Z-3
9 nonimmigrant may be adjusted by the Secretary
10 of Homeland Security to that of an alien law-
11 fully admitted for permanent residence.

12 (B) REQUIREMENTS.—A Z-2 non-
13 immigrant or Z-3 nonimmigrant may adjust
14 status to that of an alien lawfully admitted for
15 permanent residence upon satisfying, in addi-
16 tion to all other requirements imposed by law,
17 the following requirements:

18 (i) STATUS.—The alien must be in
19 valid Z-2 nonimmigrant or Z-3 non-
20 immigrant status.

21 (ii) APPROVED PETITION.—The alien
22 must be the beneficiary of an approved pe-
23 tition under section 204 of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1154)
25 or have an approved petition that was filed

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

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

10 (iv) FEES.—The alien must pay the
11 fees payable to the Secretary of Homeland
12 Security and the Secretary of State in con-
13 nection with the filing of an immigrant pe-
14 tition and application for an immigrant
15 visa.

16 (c) MAINTENANCE OF WAIVERS OF INADMIS-
17 SIBILITY.—The grounds of inadmissibility not applicable
18 under subsection (d)(2) of section 601 shall also be consid-
19 ered inapplicable for purposes of admission as an immi-
20 grant or adjustment pursuant to this section.

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

1 (1) the provisions under section 204(a)(1)(J) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1154(a)(1)(J)); and

4 (2) the protections, prohibitions, and penalties
5 under section 384 of the Illegal Immigration Reform
6 and Immigrant Responsibility Act of 1996 (8 U.S.C.
7 1367).

8 (e) **BACK OF THE LINE.**—An alien may not adjust
9 status to that of a lawful permanent resident under this
10 section until 30 days after an immigrant visa becomes
11 available for approved petitions filed under sections 201,
12 202, and 203 of the Immigration and Nationality Act (8
13 U.S.C. 1151, 1152, and 1153) that were filed before May
14 1, 2005.

15 (f) **INELIGIBILITY FOR PUBLIC BENEFITS.**—For pur-
16 poses of section 403 of the Personal Responsibility and
17 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
18 1613), an alien whose status has been adjusted under this
19 section shall not be eligible for any Federal means-tested
20 public benefit unless the alien meets the alien eligibility
21 criteria for such benefit under title IV of such Act (8
22 U.S.C. 1601 et seq.).

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

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

3 (h) PAYMENT OF INCOME TAXES.—

4 (1) IN GENERAL.—Not later than the date on
5 which status is adjusted under this section, the ap-
6 plicant shall satisfy any applicable Federal tax liabil-
7 ity accrued during the period of Z nonimmigrant
8 status by establishing that—

9 (A) no such tax liability exists;

10 (B) all outstanding liabilities have been
11 paid; or

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

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

20 (A) the applicant, upon request, to estab-
21 lish the payment of all taxes required under
22 this subsection; or

23 (B) the Secretary, upon request, regarding
24 the payment of Federal taxes by an alien apply-
25 ing for a benefit under this section.

1 (i) DEPOSIT OF FEES.—Fees collected under this
2 paragraph shall be deposited into the Immigration Exam-
3 ination Fee Account and shall remain available as pro-
4 vided under subsections (m) and (n) of section 286 of the
5 Immigration and Nationality Act (8 U.S.C. 1356).

6 (j) DEPOSIT OF PENALTIES.—Penalties collected
7 under this paragraph shall be deposited into the Tem-
8 porary Worker Program Account and shall remain avail-
9 able as provided under subsection (w) of section 286 of
10 the Immigration and Nationality Act (8 U.S.C. 1356), as
11 added by section 402.

12 **SEC. 03. ADMINISTRATIVE REVIEW, REMOVAL PRO-**
13 **CEEDINGS, AND JUDICIAL REVIEW FOR**
14 **ALIENS WHO HAVE APPLIED FOR LEGAL STA-**
15 **TUS.**

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

18 (1) EXCLUSIVE REVIEW.—Administrative re-
19 view of a determination respecting nonimmigrant
20 status under this title shall be conducted solely in
21 accordance with this subsection.

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

1 of the denial, termination, or rescission with the Sec-
2 retary not later than 30 calendar days after the date
3 of the decision or mailing thereof, whichever occurs
4 later in time. The Secretary shall establish an appel-
5 late authority to provide for a single level of admin-
6 istrative appellate review of a denial, termination, or
7 rescission of status under this Act.

8 (3) STANDARD FOR REVIEW.—Such administra-
9 tive appellate review shall be based solely upon the
10 administrative record established at the time of the
11 determination on the application and upon such ad-
12 ditional newly discovered or previously unavailable
13 evidence as the administrative appellate review au-
14 thority may decide to consider at the time of the de-
15 termination.

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

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

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

1 not later than 30 calendar days after the date of the
2 denial or the mailing thereof, whichever occurs later
3 in time, that the Secretary place the alien in removal
4 proceedings. The Secretary shall place the alien in
5 removal proceedings to which the alien would other-
6 wise be subject, unless the alien is subject to an ad-
7 ministratively final order of removal, provided that
8 no court shall have jurisdiction to review the timing
9 of the Secretary's initiation of such proceedings. If
10 the alien is subject to an administratively final order
11 of removal, the alien may seek review of the denial
12 under this section pursuant to subsection (h) of sec-
13 tion 242 of the Immigration and Nationality Act (8
14 U.S.C. 1252), as added by subsection (c), as though
15 the order of removal had been entered on the date
16 of the denial, provided that the court shall not re-
17 view the order of removal except as otherwise pro-
18 vided by law.

19 (2) ALIENS WHO ARE DETERMINED TO BE IN-
20 ELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

21 (A) AGGRAVATED FELONS.—Notwith-
22 standing any other provision of this Act, an
23 alien whose application for status under this
24 title has been denied or whose status has been
25 terminated or revoked by the Secretary under

1 subclause (II) of subsection 601(d)(1)(A)(vi)
2 because the alien has been convicted of an ag-
3 gravated felony (as defined in section
4 101(a)(43) of the Immigration and Nationality
5 Act (8 U.S.C. 1101(a)(43))) may be placed
6 forthwith in proceedings pursuant to section
7 238(b) of such Act (8 U.S.C. 1228(b)).

8 (B) OTHER CRIMINALS.—Notwithstanding
9 any other provision of this Act, any other alien
10 whose application for status under this title has
11 been denied or whose status has been termi-
12 nated or revoked by the Secretary under sub-
13 clause (I), (III), or (IV) of section
14 601(d)(1)(A)(vi) may be placed immediately in
15 removal proceedings under section 240 of the
16 Immigration and Nationality Act (8 U.S.C.
17 1229a).

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

1 of subsection (h) or (o) of section 601, notwith-
2 standing subsection (a)(2) of this section.

3 (3) LIMITATION ON MOTIONS TO REOPEN AND
4 RECONSIDER.—During the removal process under
5 this subsection the alien may file not more than 1
6 motion to reopen or to reconsider. The Secretary’s
7 or Attorney General’s decision whether to consider
8 any such motion is committed to the discretion of
9 the Secretary or the Attorney General, as appro-
10 priate.

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

14 “(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINA-
15 TIONS RELATING TO STATUS UNDER THE SECURE BOR-
16 DERS, ECONOMIC OPPORTUNITY AND IMMIGRATION RE-
17 FORM ACT OF 2007.—

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

1 tunity and Immigration Reform Act of 2007, includ-
2 ing, without limitation, a denial, termination, or re-
3 scission of such status.

4 “(2) NO REVIEW FOR LATE FILINGS.—An alien
5 may not file an application for status under title
6 ____ of the Secure Borders, Economic Opportunity
7 and Immigration Reform Act of 2007 beyond the pe-
8 riod for receipt of such applications established by
9 section __01(f) of that Act. The denial of any appli-
10 cation filed beyond the expiration of the period es-
11 tablished by that subsection shall not be subject to
12 judicial review or remedy.

13 “(3) REVIEW OF A DENIAL, TERMINATION, OR
14 RESCISSION OF STATUS.—A denial, termination, or
15 rescission of status under section __01 of the Secure
16 Borders, Economic Opportunity and Immigration
17 Reform Act of 2007 may be reviewed only in con-
18 junction with the judicial review of an order of re-
19 moval under this section, provided that—

20 “(A) the venue provision set forth in sub-
21 section (b)(2) shall govern;

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

24 “(C) the alien has exhausted all adminis-
25 trative remedies available to the alien as of

1 right, including the timely filing of an adminis-
2 trative appeal pursuant to section __03(a) of
3 the Secure Borders, Economic Opportunity and
4 Immigration Reform Act of 2007;

5 “(D) the court shall decide a challenge to
6 the denial of status only on the administrative
7 record on which the Secretary’s denial, termi-
8 nation, or rescission was based;

9 “(E) notwithstanding any other provision
10 of law, including section 2241 of title 28,
11 United States Code, or any other habeas corpus
12 provision, and sections 1361 and 1651 of such
13 title, no court reviewing a denial, termination,
14 or rescission of status under title ____ of the
15 Secure Borders, Economic Opportunity and Im-
16 migration Reform Act of 2007 may review any
17 discretionary decision or action of the Secretary
18 regarding any application for or termination or
19 rescission of such status; and

20 “(F) an alien may file not more than 1
21 motion to reopen or to reconsider in pro-
22 ceedings brought under this section.

23 “(4) STANDARD FOR JUDICIAL REVIEW.—Judi-
24 cial review of the Secretary of Homeland Security’s
25 denial, termination, or rescission of status under

1 title ____ of the Secure Borders, Economic Oppor-
2 tunity and Immigration Reform Act of 2007 relating
3 to any alien shall be based solely upon the adminis-
4 trative record before the Secretary when the Sec-
5 retary enters a final denial, termination, or rescis-
6 sion. The administrative findings of fact are conclu-
7 sive unless any reasonable adjudicator would be com-
8 pelled to conclude to the contrary. The legal deter-
9 minations are conclusive unless manifestly contrary
10 to law.

11 “(5) CHALLENGES ON VALIDITY OF THE SYS-
12 TEM.—

13 “(A) IN GENERAL.—Any claim that title
14 ____ of the Secure Borders, Economic Oppor-
15 tunity and Immigration Reform Act of 2007, or
16 any regulation, written policy, or written direc-
17 tive issued or unwritten policy or practice initi-
18 ated by or under the authority of the Secretary
19 of Homeland Security to implement such title,
20 violates the Constitution of the United States or
21 is otherwise in violation of law, is available ex-
22 clusively in an action instituted in the United
23 States District Court for the District of Colum-
24 bia in accordance with the procedures pre-
25 scribed in this paragraph. Nothing in this sub-

1 paragraph shall preclude an applicant for status
2 under such title from asserting that an action
3 taken or decision made by the Secretary with
4 respect to the applicant's status under such
5 title was contrary to law in a proceeding under
6 section __03 of the Secure Borders, Economic
7 Opportunity and Immigration Reform Act of
8 2007 and subsection (b)(2) of this section.

9 “(B) DEADLINES FOR BRINGING AC-
10 TIONS.—Any action instituted under this para-
11 graph—

12 “(i) shall, if it asserts a claim that
13 title _____ of the Secure Borders, Economic
14 Opportunity and Immigration Reform Act
15 of 2007 or any regulation, written policy,
16 or written directive issued by or under the
17 authority of the Secretary to implement
18 such title violates the Constitution or is
19 otherwise unlawful, be filed not later than
20 1 year after the date of the publication or
21 promulgation of the challenged regulation,
22 policy, or directive or, in cases challenging
23 the validity of such Act, not later than 1
24 year after the date of the enactment of
25 such Act; and

1 “(ii) shall, if it asserts a claim that an
2 unwritten policy or practice initiated by or
3 under the authority of the Secretary vio-
4 lates the Constitution or is otherwise un-
5 lawful, be filed not later than 1 year after
6 the plaintiff knew or reasonably should
7 have known of the unwritten policy or
8 practice.

9 “(C) CLASS ACTIONS.—Any claim de-
10 scribed in subparagraph (A) that is brought as
11 a class action shall be brought in conformity
12 with the Class Action Fairness Act of 2005
13 (Public Law 109–2; 119 Stat. 4), the amend-
14 ments made by that Act, and the Federal Rules
15 of Civil Procedure.

16 “(D) PRECLUSIVE EFFECT.—The final dis-
17 position of any claim brought under subpara-
18 graph (A) shall be preclusive of any such claim
19 asserted in a subsequent proceeding under this
20 subsection or under section __03 of the Secure
21 Borders, Economic Opportunity and Immigra-
22 tion Reform Act of 2007.

23 “(E) EXHAUSTION AND STAY OF PRO-
24 CEEDINGS.—No claim brought under this para-
25 graph shall require the plaintiff to exhaust ad-

1 ministrative remedies under section __03 of the
2 Secure Borders, Economic Opportunity and Im-
3 migration Reform Act of 2007, but nothing
4 shall prevent the court from staying pro-
5 ceedings under this paragraph to permit the
6 Secretary to evaluate an allegation of an un-
7 written policy or practice or to take corrective
8 action. In issuing such a stay, the court shall
9 take into account any harm the stay may cause
10 to the claimant. The court shall have no author-
11 ity to stay proceedings initiated under any other
12 section of this Act.”.

13 **SEC. __04. MANDATORY DISCLOSURE OF INFORMATION.**

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

17 (1) use the information furnished by the appli-
18 cant pursuant to an application filed under section
19 __01 and __02, for any purpose, other than to make
20 a determination on the application;

21 (2) make any publication through which the in-
22 formation furnished by any particular applicant can
23 be identified; or

24 (3) permit anyone other than the sworn offi-
25 cers, employees or contractors of such agency, bu-

1 reau, or approved entity, as approved by the Sec-
2 retary of Homeland Security, to examine individual
3 applications that have been filed.

4 (b) **REQUIRED DISCLOSURES.**—The Secretary of
5 Homeland Security and the Secretary of State shall pro-
6 vide the information furnished pursuant to an application
7 filed under section 601 and 602, and any other informa-
8 tion derived from such furnished information, to—

9 (1) a law enforcement entity, intelligence agen-
10 cy, national security agency, component of the De-
11 partment of Homeland Security, court, or grand
12 jury in connection with a criminal investigation or
13 prosecution or a national security investigation or
14 prosecution, in each instance about an individual
15 suspect or group of suspects, when such information
16 is requested by such entity;

17 (2) a law enforcement entity, intelligence agen-
18 cy, national security agency, or component of the
19 Department of Homeland Security in connection
20 with a duly authorized investigation of a civil viola-
21 tion, in each instance about an individual suspect or
22 group of suspects, when such information is re-
23 quested by such entity; or

24 (3) an official coroner for purposes of affirma-
25 tively identifying a deceased individual, whether or

1 not the death of such individual resulted from a
2 crime.

3 (c) INAPPLICABILITY AFTER DENIAL.—The limita-
4 tions under subsection (a)—

5 (1) shall apply only until an application filed
6 under section __ 01 and __ 02 is denied and all op-
7 portunities for administrative appeal of the denial
8 have been exhausted; and

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

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

20 (e) AUDITING AND EVALUATION OF INFORMATION.—
21 The Secretary may audit and evaluate information fur-
22 nished as part of any application filed under sections __ 01
23 and __ 02, any application to extend such status under sec-
24 tion __ 01(k), or any application to adjust status to that
25 of an alien lawfully admitted for permanent residence

1 under section __02, for purposes of identifying fraud or
2 fraud schemes, and may use any evidence detected by
3 means of audits and evaluations for purposes of inves-
4 tigating, prosecuting or referring for prosecution, denying,
5 or terminating immigration benefits.

6 (f) USE OF INFORMATION IN PETITIONS AND APPLI-
7 CATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If
8 the Secretary has adjusted an alien's status to that of an
9 alien lawfully admitted for permanent residence pursuant
10 to section __02, then at any time thereafter the Secretary
11 may use the information furnished by the alien in the ap-
12 plication for adjustment of status or in the applications
13 for status pursuant to sections __01 or __02 to make a
14 determination on any petition or application.

15 (g) CRIMINAL PENALTY.—Any person who knowingly
16 uses, publishes, or permits information to be examined in
17 violation of this section shall be fined not more than
18 \$10,000.

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

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

3 (i) REFERENCES.—References in this section to sec-
4 tion __01 or __02 are references to sections __01 and
5 __02 of this Act and the amendments made by those sec-
6 tions.

7 **SEC. __05. EMPLOYER PROTECTIONS.**

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

19 (b) APPLICABILITY OF OTHER LAW.—Nothing in
20 this section may be used to shield an employer from liabil-
21 ity under section 274B of the Immigration and Nation-
22 ality Act (8 U.S.C. 1324b) or any other labor or employ-
23 ment law.

1 **SEC. 06. ENUMERATION OF SOCIAL SECURITY NUMBER.**

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

8 **SEC. 07. PRECLUSION OF SOCIAL SECURITY CREDITS FOR**
9 **YEARS PRIOR TO ENUMERATION.**

10 (a) INSURED STATUS.—Section 214 of the Social Se-
11 curity Act (42 U.S.C. 414) is amended by striking sub-
12 section (c) and inserting the following:

13 “(c)(1) Except as provided in paragraph (2), for pur-
14 poses of subsections (a) and (b), no quarter of coverage
15 shall be credited for any calendar year beginning on or
16 after January 1, 2004, with respect to an individual who
17 is not a natural-born United States citizen, unless the
18 Commissioner of Social Security determines, on the basis
19 of information provided to the Commissioner in accord-
20 ance with an agreement entered into under subsection (d)
21 or otherwise, that the individual was authorized to be em-
22 ployed in the United States during such quarter.

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

1 “(d) Not later than 180 days after the date of the
2 enactment of this subsection, the Secretary of Homeland
3 Security shall enter into an agreement with the Commis-
4 sioner of Social Security to provide such information as
5 the Commissioner determines necessary to carry out the
6 limitation on crediting quarters of coverage under sub-
7 section (c).”.

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

10 (1) by striking “and” at the end of paragraph

11 (1);

12 (2) by striking the period at the end of para-
13 graph (2) and inserting “; and”; and

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

16 “(3) in computing the average indexed monthly
17 earnings of an individual, there shall not be counted
18 any wages or self-employment income for any year
19 for which no quarter of coverage may be credited to
20 such individual as a result of the application of sec-
21 tion 214(c).”.

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

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

5 **SEC. __08. PAYMENT OF PENALTIES AND USE OF PEN-**
6 **ALTIES COLLECTED.**

7 (a) PROCEDURES.—The Secretary shall by regulation
8 establish procedures allowing for the payment of 80 per-
9 cent of the penalties described in section __01(e)(5)(B)
10 and section __02(a)(3)(D) through an installment pay-
11 ment plan.

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

15 (1) Such penalties shall be credited as offset-
16 ting collections to appropriations provided pursuant
17 to section __11 for the fiscal year in which this Act
18 is enacted and the subsequent fiscal year.

19 (2) Such penalties shall be deposited and re-
20 main available as otherwise provided under this title.

21 **SEC. __09. LIMITATIONS ON ELIGIBILITY.**

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

1 United States Code, or any amendments made by this Act,
2 during the period beginning on the date of the enactment
3 of this Act and ending on the date on which the alien ap-
4 plies for any benefits under this title, except with respect
5 to any forgery, fraud, or misrepresentation on the applica-
6 tion for Z nonimmigrant status filed by the alien.

7 (b) PROSECUTION.—An alien who commits a viola-
8 tion of section 1543, 1544, or 1546 of title 18, United
9 States Code, or any amendments made by this Act, during
10 the period beginning on the date of the enactment of this
11 Act and ending on the date on which the alien applies for
12 eligibility for an immigration benefit described in sub-
13 section (a) may be prosecuted for the violation if the
14 alien’s application for such benefit is denied.

15 **SEC. 10. RULEMAKING.**

16 (a) INTERIM FINAL RULE.—The Secretary shall
17 issue an interim final rule within 6 months of the date
18 of the enactment of this subtitle to implement this title
19 and the amendments made by this title. The interim final
20 rule shall become effective immediately upon publication
21 in the Federal Register. The interim final rule shall sunset
22 2 years after issuance unless the Secretary issues a final
23 rule within 2 years of the issuance of the interim final
24 rule.

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

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There are authorized to be appro-
9 priated to the Secretary of Homeland Security such sums
10 as may be necessary to carry out this title and the amend-
11 ments made by this title.

12 (b) AVAILABILITY OF FUNDS.—Funds appropriated
13 pursuant to subsection (a) shall remain available until ex-
14 pended.

15 (c) SENSE OF CONGRESS.—It is the sense of the Con-
16 gress that funds authorized to be appropriated under sub-
17 section (a) should be directly appropriated so as to facili-
18 tate the orderly and timely commencement of the proc-
19 essing of applications filed under sections 01 and 02.

20 **Subtitle B—Dream Act**

21 **SEC. 20. SHORT TITLE.**

22 This subtitle may be cited as the “Development, Re-
23 lief, and Education for Alien Minors Act of 2007” or the
24 “DREAM Act of 2007”.

1 **SEC. 21. DEFINITIONS.**

2 In this subtitle:

3 (1) INSTITUTION OF HIGHER EDUCATION.—The
4 term “institution of higher education” has the
5 meaning given that term in section 101 of the High-
6 er Education Act of 1965 (20 U.S.C. 1001).

7 (2) UNIFORMED SERVICES.—The term “uni-
8 formed services” has the meaning given that term in
9 section 101(a) of title 10, United States Code.

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

13 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
14 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
15 DREN.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law and except as otherwise provided in
18 this subtitle, the Secretary of Homeland Security
19 may beginning on the date that is 3 years after the
20 date of the enactment of this Act adjust to the sta-
21 tus of an alien lawfully admitted for permanent resi-
22 dence an alien who is determined to be eligible for
23 or has been granted probationary or Z non-
24 immigrant status if the alien demonstrates that—

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

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

5 (B) the alien has earned a high school di-
6 ploma or obtained a general education develop-
7 ment certificate in the United States;

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

11 (D) the alien has—

12 (i) acquired a degree from an institu-
13 tion of higher education in the United
14 States or has completed at least 2 years, in
15 good standing, in a program for a bach-
16 elor's degree or higher degree in the
17 United States; or

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

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

1 (F) the alien is in compliance with the eli-
2 gibility and admissibility criteria set forth in
3 section 601(d).

4 (2) ABANDONMENT.—The Secretary shall pre-
5 sume that the alien has abandoned such residence if
6 the alien is absent from the United States for more
7 than 365 days, in the aggregate, during the period
8 of conditional residence, unless the alien dem-
9 onstrates that alien has not abandoned the alien’s
10 residence. An alien who is absent from the United
11 States due to active service in the uniformed services
12 has not abandoned the alien’s residence in the
13 United States during the period of such service.

14 (b) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
15 URALIZATION.—Solely for purposes of title III of the Im-
16 migration and Nationality Act (8 U.S.C. 1401 et seq.),
17 an alien who has been granted probationary or Z non-
18 immigrant status and has satisfied the requirements of
19 paragraphs (A) through (F) of subsection (a)(1) shall be-
20 ginning on the date that is 8 years after the date of the
21 enactment of this Act be considered to have satisfied the
22 requirements of section 316(a)(1) of the Immigration and
23 Nationality Act (8 U.S.C. 1427(a)(1)).

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

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

3 (d) REGULATIONS.—

4 (1) PROPOSED REGULATIONS.—Not later than
5 180 days after the date of the enactment of this Act,
6 the Secretary shall publish proposed regulations im-
7 plementing this section. Such regulations shall be ef-
8 fective immediately on an interim basis, but are sub-
9 ject to change and revision after public notice and
10 opportunity for a period for public comment.

11 (2) INTERIM, FINAL REGULATIONS.—Within a
12 reasonable time after publication of the interim reg-
13 ulations in accordance with paragraph (1), the Sec-
14 retary shall publish final regulations implementing
15 this section.

16 **SEC. 23. EXPEDITED PROCESSING OF APPLICATIONS;**
17 **PROHIBITION ON FEES.**

18 Regulations promulgated under this subtitle shall
19 provide that no additional fee will be charged to an appli-
20 cant for a Z nonimmigrant visa for applying for benefits
21 under this subtitle.

22 **SEC. 24. HIGHER EDUCATION ASSISTANCE.**

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

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

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

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

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

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

21 **SEC. __ 25. DELAY OF FINES AND FEES.**

22 (a) IN GENERAL.—Payment of the penalties and fees
23 specified in section __ 01(e)(5) shall not be required with
24 respect to an alien who meets the eligibility criteria set
25 forth in subparagraphs (A), (B), and (F) of section

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

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

19 **SEC. 26. GAO REPORT.**

20 Not later than 7 years after the date of the enact-
21 ment of this Act, the Comptroller General of the United
22 States shall submit a report to the Committee on the Judi-
23 ciary of the Senate and the Committee on the Judiciary
24 of the House of Representatives, which sets forth—

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

3 (2) the number of aliens who applied for adjust-
4 ment of status under section __22; and

5 (3) the number of aliens who were granted ad-
6 justment of status under section __22.

7 **SEC. __27. REGULATIONS; EFFECTIVE DATE; AUTHORIZA-**
8 **TION OF APPROPRIATIONS.**

9 (a) **REGULATIONS.**—The Secretary of Homeland Se-
10 curity shall issue regulations to carry out the amendments
11 made by this subtitle not later than the first day of the
12 seventh month that begins after the date of the enactment
13 of this Act.

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

18 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
19 are authorized to be appropriated to the Secretary of
20 Homeland Security such sums as may be necessary to im-
21 plement this subtitle, including any sums needed for costs
22 associated with the initiation of such implementation.

1 **Subtitle C—Agricultural Workers**

2 **SEC. __ 30. SHORT TITLE.**

3 This subtitle may be cited as the “Agricultural Job
4 Opportunities, Benefits, and Security Act of 2007” or the
5 “AgJOBS Act of 2007”.

6 **PART I—ADMISSION**

7 **SEC. __ 31. ADMISSION OF AGRICULTURAL WORKERS.**

8 (a) Z–A NONIMMIGRANT VISA CATEGORY.—

9 (1) ESTABLISHMENT.—Paragraph (15) of sec-
10 tion 101(a) of the Immigration and Nationality Act
11 (8 U.S.C. 1101(a)), as amended by section __ 01(b),
12 is further amended by adding at the end the fol-
13 lowing new subparagraph:

14 “(Z–A)(i) an alien who is coming to the
15 United States to perform any service or activity
16 that is considered to be agricultural under sec-
17 tion 3(f) of the Fair Labor Standards Act of
18 1938 (29 U.S.C. 203(f)), agricultural labor
19 under section 3121(g) of the Internal Revenue
20 Code of 1986, or the performance of agricul-
21 tural labor or services described in subpara-
22 graph (H)(ii)(a), who meets the requirements of
23 section 214A; or

1 “(ii) the spouse or minor child of an alien
2 described in clause (i) who is residing in the
3 United States.”.

4 (b) REQUIREMENTS FOR ISSUANCE OF NON-
5 IMMIGRANT VISA.—Chapter 2 of title II of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1181 et seq.) is amend-
7 ed by inserting after section 214 the following:

8 **“SEC. 214A. ADMISSION OF AGRICULTURAL WORKERS.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) AGRICULTURAL EMPLOYMENT.—The term
11 ‘agricultural employment’ means any service or ac-
12 tivity that is considered to be agricultural under sec-
13 tion 3(f) of the Fair Labor Standards Act of 1938
14 (29 U.S.C. 203(f)) or agricultural labor under sec-
15 tion 3121(g) of the Internal Revenue Code of 1986
16 or the performance of agricultural labor or services
17 described in section 101(a)(15)(H)(ii)(a).

18 “(2) DEPARTMENT.—The term ‘Department’
19 means the Department of Homeland Security.

20 “(3) EMPLOYER.—The term ‘employer’ means
21 any person or entity, including any farm labor con-
22 tractor and any agricultural association, that em-
23 ploys workers in agricultural employment.

24 “(4) QUALIFIED DESIGNATED ENTITY.—The
25 term ‘qualified designated entity’ means—

1 “(A) a qualified farm labor organization or
2 an association of employers designated by the
3 Secretary; or

4 “(B) any such other person designated by
5 the Secretary if the Secretary determines such
6 person is qualified and has substantial experi-
7 ence, demonstrated competence, and a history
8 of long-term involvement in the preparation and
9 submission of applications for adjustment of
10 status under section 209, 210, or 245, the Act
11 entitled ‘An Act to adjust the status of Cuban
12 refugees to that of lawful permanent residents
13 of the United States, and for other purposes’,
14 approved November 2, 1966 (Public Law 89–
15 732; 8 U.S.C. 1255 note), Public Law 95–145
16 (8 U.S.C. 1255 note), or the Immigration Re-
17 form and Control Act of 1986 (Public Law 99–
18 603; 100 Stat. 3359) or any amendment made
19 by such Act.

20 “(5) SECRETARY.—Except as otherwise pro-
21 vided, the term ‘Secretary’ means the Secretary of
22 Homeland Security.

23 “(6) TEMPORARY.—A worker is employed on a
24 ‘temporary’ basis when the employment is intended
25 not to exceed 10 months.

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

4 “(8) Z–A DEPENDENT VISA.—The term ‘Z–A
5 dependent visa’ means a nonimmigrant visa issued
6 pursuant to section 101(a)(15)(Z–A)(ii).

7 “(9) Z–A VISA.—The term ‘Z–A visa’ means a
8 nonimmigrant visa issued pursuant to section
9 101(a)(15)(Z–A)(i).

10 “(b) AUTHORIZATION FOR PRESENCE, EMPLOY-
11 MENT, AND TRAVEL IN THE UNITED STATES.—

12 “(1) IN GENERAL.—An alien issued a Z–A visa
13 or a Z–A dependent visa may remain in, and be em-
14 ployed in, the United States during the period such
15 visa is valid.

16 “(2) AUTHORIZED EMPLOYMENT.—The Sec-
17 retary shall provide an alien who is issued a Z–A
18 visa or a Z–A dependent visa an employment author-
19 ized endorsement or other appropriate work permit,
20 in the same manner as an alien lawfully admitted
21 for permanent residence.

22 “(3) AUTHORIZED TRAVEL.—An alien who is
23 issued a Z–A visa or a Z–A dependent visa is au-
24 thorized to travel outside the United States (includ-
25 ing commuting to the United States from a resi-

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

3 “(c) QUALIFICATIONS.—

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

8 “(A) has performed agricultural employ-
9 ment in the United States for at least 863
10 hours or 150 work days during the 24-month
11 period ending on December 31, 2006;

12 “(B) applied for such status during the
13 18-month application period beginning on the
14 first day of the seventh month that begins after
15 the date of the enactment of this Act;

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

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

23 “(E) meets the requirements of paragraph
24 (3).

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

4 “(A) described in section 101(a)(15)(Z–
5 A)(ii);

6 “(B) meets the requirements of paragraph
7 (3); and

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

11 “(3) SECURITY AND LAW ENFORCEMENT BACK-
12 GROUND CHECKS.—

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

17 “(B) BACKGROUND CHECKS.—The Sec-
18 retary shall utilize fingerprints provided under
19 subparagraph (A) and other biometric data pro-
20 vided by an alien to conduct a background
21 check of the alien, including searching the
22 alien’s criminal history and any law enforce-
23 ment actions taken with respect to the alien
24 and ensuring that the alien is not a risk to na-
25 tional security.

1 “(4) WAIVER OF CERTAIN GROUNDS OF INAD-
2 MISSIBILITY.—In the determination of an alien’s eli-
3 gibility for a Z–A visa or a Z–A dependent visa the
4 following shall apply:

5 “(A) GROUNDS OF EXCLUSION NOT APPLI-
6 CABLE.—The provisions of paragraphs (5),
7 (6)(A), (7), and (9) of section 212(a) shall not
8 apply.

9 “(B) WAIVER OF OTHER GROUNDS.—

10 “(i) IN GENERAL.—Except as pro-
11 vided in clause (ii), the Secretary may
12 waive any provision of section 212(a),
13 other than the paragraphs described in
14 subparagraph (A), in the case of individual
15 aliens for humanitarian purposes, to en-
16 sure family unity, or if such waiver is oth-
17 erwise in the public interest.

18 “(ii) GROUNDS THAT MAY NOT BE
19 WAIVED.—Except as provided in subpara-
20 graph (C), subparagraphs (A), (B), and
21 (C) of paragraph (2), and paragraphs (3)
22 and (4) of section 212(a) may not be
23 waived by the Secretary under clause (i).

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

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

4 “(C) SPECIAL RULE FOR DETERMINATION
5 OF PUBLIC CHARGE.—An alien is not ineligible
6 for a Z–A visa or a Z–A dependent visa by rea-
7 son of a ground of inadmissibility under section
8 212(a)(4) if the alien demonstrates a history of
9 employment in the United States evidencing
10 self-support without reliance on public cash as-
11 sistance.

12 “(d) APPLICATION.—

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

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

19 “(A) to the Secretary if the applicant is
20 represented by an attorney or a nonprofit reli-
21 gious, charitable, social service, or similar orga-
22 nization recognized by the Board of Immigra-
23 tion Appeals under section 292.2 of title 8,
24 Code of Federal Regulations (or similar suc-
25 cessor regulations); or

1 “(B) to a qualified designated entity if the
2 applicant consents to the forwarding of the ap-
3 plication to the Secretary.

4 “(3) PROOF OF ELIGIBILITY.—

5 “(A) IN GENERAL.—An alien may estab-
6 lish that the alien meets the requirement for a
7 Z–A visa through government employment
8 records or records supplied by employers or col-
9 lective bargaining organizations, and other reli-
10 able documentation as the alien may provide.
11 The Secretary shall establish special procedures
12 to properly credit work in cases in which an
13 alien was employed under an assumed name.

14 “(B) DOCUMENTATION OF WORK HIS-
15 TORY.—

16 “(i) BURDEN OF PROOF.—An alien
17 applying for a Z–A visa or applying for ad-
18 justment of status described in subsection
19 (j) has the burden of proving by a prepon-
20 derance of the evidence that the alien has
21 performed the requisite number of hours or
22 days of agricultural employment required
23 for such application or adjustment of sta-
24 tus, as applicable.

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

3 “(ii) not to forward to the Secretary
4 any such application if such an alien has
5 not consented to such forwarding; and

6 “(iii) to assist an alien in obtaining
7 documentation of the alien’s work history,
8 if the alien requests such assistance.

9 “(B) NO AUTHORITY TO MAKE DETER-
10 MINATIONS.—No qualified designated entity
11 may make a determination required by this sec-
12 tion to be made by the Secretary.

13 “(5) APPLICATION FEES.—

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

16 “(i) shall be charged for applying for
17 a Z–A visa under this section or for an ad-
18 justment of status described in subsection
19 (j); and

20 “(ii) may be charged by qualified des-
21 ignated entities to help defray the costs of
22 services provided to such aliens making
23 such an application.

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

1 fied designated entity may not charge any fee
2 in excess of, or in addition to, the fees author-
3 ized under subparagraph (A)(ii) for services
4 provided to applicants.

5 “(6) LIMITATION ON ACCESS TO INFORMA-
6 TION.—Files and records collected or compiled by a
7 qualified designated entity for the purposes of this
8 section are confidential and the Secretary shall not
9 have access to such a file or record relating to an
10 alien without the consent of the alien, except as al-
11 lowed by a court order.

12 “(7) TREATMENT OF APPLICANTS.—

13 “(A) IN GENERAL.—An alien who files an
14 application under this section to receive a Z–A
15 visa and any spouse or child of the alien seek-
16 ing a Z–A dependant visa, on the date de-
17 scribed in subparagraph (B)—

18 “(i) shall be granted probationary
19 benefits in the form of employment author-
20 ization pending final adjudication of the
21 alien’s application;

22 “(ii) may in the Secretary’s discretion
23 receive advance permission to re-enter the
24 United States pursuant to existing regula-
25 tions governing advance parole;

1 “(iii) may not be detained for immi-
2 gration purposes, determined inadmissible
3 or deportable, or removed pending final ad-
4 judication of the alien’s application, unless
5 the alien is determined to be ineligible for
6 Z–A visa; and

7 “(iv) may not be considered an unau-
8 thorized alien (as defined in section 274A)
9 until the date on which the alien’s applica-
10 tion for a Z–A visa is denied.

11 “(B) TIMING OF PROBATIONARY BENE-
12 FITS.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), an alien who submits an application
15 for a Z–A visa under this subsection, in-
16 cluding any evidence required under this
17 subsection, and any spouse or child of the
18 alien seeking a Z–A dependent visa shall
19 receive the probationary benefits described
20 in clauses (i) through (iv) of subparagraph
21 (A) at the earlier of—

22 “(I) the date and time that the
23 alien has passed all appropriate back-
24 ground checks, including name and
25 fingerprint checks; or

1 “(II) the end of the next business
2 day after the date that the Secretary
3 receives the alien’s application for a
4 Z–A visa.

5 “(ii) EXCEPTION.—If the Secretary
6 determines that the alien fails the back-
7 ground checks referred to in clause (i)(I),
8 the alien may not be granted probationary
9 benefits described in clauses (i) through
10 (iv) of subparagraph (A).

11 “(C) PROBATIONARY AUTHORIZATION DOC-
12 UMENT.—The Secretary shall provide each alien
13 granted probationary benefits described in
14 clauses (i) through (iv) of subparagraph (A)
15 with a counterfeit-resistant document that re-
16 flects the benefits and status set forth in sub-
17 paragraph (A). The Secretary may, by regula-
18 tion, establish procedures for the issuance of
19 documentary evidence of probationary benefits
20 and, except as provided herein, the conditions
21 under which such documentary evidence ex-
22 pires, terminates, or is renewed.

23 “(D) CONSTRUCTION.—Nothing in this
24 section may be construed to limit the Sec-
25 retary’s authority to conduct any appropriate

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

4 “(8) TEMPORARY STAY OF REMOVAL AND WORK
5 AUTHORIZATION FOR CERTAIN APPLICANTS.—

6 “(A) BEFORE APPLICATION PERIOD.—Be-
7 ginning on the date of the enactment of the
8 AgJOBS Act of 2007, the Secretary shall pro-
9 vide that, in the case of an alien who is appre-
10 hended prior to the first date of the application
11 period described in subsection (c)(1)(B) and
12 who can establish a nonfrivolous case of eligi-
13 bility for a Z–A visa (but for the fact that the
14 alien may not apply for such status until the
15 beginning of such period), the alien—

16 “(i) may not be removed; and

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

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

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

7 “(i) may not be removed; and

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

13 “(e) NUMERICAL LIMITATIONS.—

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

16 “(2) Z–A DEPENDENT VISA.—The Secretary
17 may not count any Z–A dependent visa issued
18 against the numerical limitation described in para-
19 graph (1).

20 “(f) EVIDENCE OF NONIMMIGRANT STATUS.—

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

1 “(2) FEATURES OF DOCUMENTATION.—Docu-
2 mentary evidence of a Z–A visa or a Z–A dependent
3 visa—

4 “(A) shall be machine-readable, tamper-re-
5 sistant, and shall contain a digitized photo-
6 graph and other biometric identifiers that can
7 be authenticated;

8 “(B) shall be designed in consultation with
9 U.S. Immigration and Customs Enforcement’s
10 Forensic Document Laboratory;

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

17 “(D) may be accepted during the period of
18 its validity by an employer as evidence of em-
19 ployment authorization and identity under sec-
20 tion 274A; and

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

1 appropriate background checks on each alien
2 are completed to the satisfaction of the Sec-
3 retary.

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

6 “(h) TREATMENT OF ALIENS GRANTED A Z–A
7 VISA.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided under this subsection, an alien issued a Z–A
10 visa or a Z–A dependent visa shall be considered to
11 be an alien lawfully admitted for permanent resi-
12 dence for purposes of any law other than any provi-
13 sion of this Act.

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

23 “(3) TERMS OF EMPLOYMENT.—

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

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

3 “(B) TREATMENT OF COMPLAINTS.—

4 “(i) ESTABLISHMENT OF PROCESS.—

5 The Secretary shall establish a process for
6 the receipt, initial review, and disposition
7 of complaints by aliens issued a Z–A visa
8 who allege that they have been terminated
9 without just cause. No proceeding shall be
10 conducted under this subparagraph with
11 respect to a termination unless the Sec-
12 retary determines that the complaint was
13 filed not later than 6 months after the
14 date of the termination.

15 “(ii) INITIATION OF ARBITRATION.—

16 If the Secretary finds that an alien has
17 filed a complaint in accordance with clause
18 (i) and there is reasonable cause to believe
19 that the alien was terminated from employ-
20 ment without just cause, the Secretary
21 shall initiate binding arbitration pro-
22 ceedings by requesting the Federal Medi-
23 ation and Conciliation Service to appoint a
24 mutually agreeable arbitrator from the ros-
25 ter of arbitrators maintained by such Serv-

1 ice for the geographical area in which the
2 employer is located. The procedures and
3 rules of such Service shall be applicable to
4 the selection of such arbitrator and to such
5 arbitration proceedings. The Secretary
6 shall pay the fee and expenses of the arbi-
7 trator, subject to the availability of appro-
8 priations for such purpose.

9 “(iii) ARBITRATION PROCEEDINGS.—

10 The arbitrator shall conduct the pro-
11 ceeding under this subparagraph in accord-
12 ance with the policies and procedures pro-
13 mulgated by the American Arbitration As-
14 sociation applicable to private arbitration
15 of employment disputes. The arbitrator
16 shall make findings respecting whether the
17 termination was for just cause. The arbi-
18 trator may not find that the termination
19 was for just cause unless the employer so
20 demonstrates by a preponderance of the
21 evidence. If the arbitrator finds that the
22 termination was not for just cause, the ar-
23 bitrator shall make a specific finding of the
24 number of days or hours of work lost by
25 the employee as a result of the termi-

1 nation. The arbitrator shall have no au-
2 thority to order any other remedy, includ-
3 ing reinstatement, back pay, or front pay
4 to the affected employee. Not later than 30
5 days after the date of the conclusion of the
6 arbitration proceeding, the arbitrator shall
7 transmit the findings in the form of a writ-
8 ten opinion to the parties to the arbitration
9 and the Secretary. Such findings shall be
10 final and conclusive, and no official or
11 court of the United States shall have the
12 power or jurisdiction to review any such
13 findings.

14 “(iv) EFFECT OF ARBITRATION FIND-
15 INGS.—If the Secretary receives a finding
16 of an arbitrator that an employer has ter-
17 minated the employment of an alien who is
18 issued a Z–A visa without just cause, the
19 Secretary shall credit the alien for the
20 number of days of work not performed
21 during such period of termination for the
22 purpose of determining if the alien meets
23 the qualifying employment requirement of
24 subsection (f)(2).

1 “(v) TREATMENT OF ATTORNEY’S
2 FEES.—Each party to an arbitration under
3 this subparagraph shall bear the cost of
4 their own attorney’s fees for the arbitra-
5 tion.

6 “(vi) NONEXCLUSIVE REMEDY.—The
7 complaint process provided for in this sub-
8 paragraph is in addition to any other
9 rights an employee may have in accordance
10 with applicable law.

11 “(vii) EFFECT ON OTHER ACTIONS OR
12 PROCEEDINGS.—Any finding of fact or
13 law, judgment, conclusion, or final order
14 made by an arbitrator in the proceeding
15 before the Secretary shall not be conclusive
16 or binding in any separate or subsequent
17 action or proceeding between the employee
18 and the employee’s current or prior em-
19 ployer brought before an arbitrator, admin-
20 istrative agency, court, or judge of any
21 State or the United States, regardless of
22 whether the prior action was between the
23 same or related parties or involved the
24 same facts, except that the arbitrator’s
25 specific finding of the number of days or

1 hours of work lost by the employee as a re-
2 sult of the employment termination may be
3 referred to the Secretary pursuant to
4 clause (iv).

5 “(4) RECORD OF EMPLOYMENT.—

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

8 “(i) provide a written record of em-
9 ployment to the alien; and

10 “(ii) provide a copy of such record to
11 the Secretary.

12 “(B) CIVIL PENALTIES.—

13 “(i) IN GENERAL.—If the Secretary
14 finds, after notice and opportunity for a
15 hearing, that an employer of an alien
16 issued a Z–A visa has failed to provide the
17 record of employment required under sub-
18 paragraph (A) or has provided a false
19 statement of material fact in such a
20 record, the employer shall be subject to a
21 civil money penalty in an amount not to
22 exceed \$1,000 per violation.

23 “(ii) LIMITATION.—The penalty appli-
24 cable under clause (i) for failure to provide
25 records shall not apply unless the alien has

1 provided the employer with evidence of em-
2 ployment authorization granted under this
3 subsection.

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

5 “(1) IN GENERAL.—The Secretary may termi-
6 nate a Z–A visa or a Z–A dependent visa issued to
7 an alien only if the Secretary determines that the
8 alien is deportable.

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

16 “(A) the Secretary finds, by a preponder-
17 ance of the evidence, that the issuance of a Z–
18 A visa was the result of fraud or willful mis-
19 representation (as described in section
20 212(a)(6)(C)(i)); or

21 “(B) the alien—

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

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

4 “(iii) is convicted of an offense, an
5 element of which involves bodily injury,
6 threat of serious bodily injury, or harm to
7 property in excess of \$500; or

8 “(iv) in the case of an alien issued a
9 Z–A visa, fails to perform the agricultural
10 employment described in subsection
11 (j)(1)(A) unless the alien was unable to
12 work in agricultural employment due to
13 the extraordinary circumstances described
14 in subsection (j)(1)(A)(iii).

15 “(3) REPORTING REQUIREMENT.—The Sec-
16 retary shall promulgate regulations to ensure that
17 the alien issued a Z–A visa complies with the quali-
18 fying agricultural employment described in sub-
19 section (j)(1)(A) at the end of the 5-year work pe-
20 riod, which may include submission of an application
21 pursuant to this subsection.

22 “(j) ADJUSTMENT TO PERMANENT RESIDENCE.—

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

1 least 150 workdays during 3 years of those
2 4 years and at least 100 workdays during
3 the remaining year, during the 4-year pe-
4 riod beginning on such date of enactment.

5 “(iii) EXTRAORDINARY CIR-
6 CUMSTANCES.—In determining whether an
7 alien has met the requirement of clause (i),
8 the Secretary may credit the alien with not
9 more than 12 additional months to meet
10 the requirement of that clause if the alien
11 was unable to work in agricultural employ-
12 ment due to—

13 “(I) pregnancy, injury, or dis-
14 ease, if the alien can establish such
15 pregnancy, disabling injury, or disease
16 through medical records;

17 “(II) illness, disease, or other
18 special needs of a minor child, if the
19 alien can establish such illness, dis-
20 ease, or special needs through medical
21 records; or

22 “(III) severe weather conditions
23 that prevented the alien from engag-
24 ing in agricultural employment for a
25 significant period of time.

1 “(B) PROOF.—An alien may demonstrate
2 compliance with the requirements of subpara-
3 graph (A) by submitting—

4 “(i) the record of employment de-
5 scribed in subsection (h)(4); or

6 “(ii) such documentation as may be
7 submitted under subsection (d)(3).

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

11 “(i) apply for adjustment of status; or

12 “(ii) renew the alien’s Z visa status as
13 described in section 601(k)(2).

14 “(D) FINE.—The alien pays to the Sec-
15 retary a fine of \$400.

16 “(2) SPOUSES AND MINOR CHILDREN.—Not-
17 withstanding any other provision of law, the Sec-
18 retary shall confer the status of lawful permanent
19 resident on the spouse and minor child of an alien
20 granted any adjustment of status under paragraph
21 (1), including any individual who was a minor child
22 on the date such alien was granted a Z–A visa, if
23 the spouse or minor child applies for such status, or
24 if the principal alien includes the spouse or minor

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

3 “(3) GROUNDS FOR DENIAL OF ADJUSTMENT
4 OF STATUS.—The Secretary may deny an alien
5 granted a Z–A visa or a Z–A dependent visa an ad-
6 justment of status under this Act and provide for
7 termination of such visa if—

8 “(A) the Secretary finds by a preponder-
9 ance of the evidence that grant of the Z–A visa
10 was the result of fraud or willful misrepresenta-
11 tion (as described in section 212(a)(6)(C)(i)); or

12 “(B) the alien—

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

17 “(ii) is convicted of a felony or 3 or
18 more misdemeanors committed in the
19 United States; or

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

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

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

9 “(5) PAYMENT OF TAXES.—

10 “(A) IN GENERAL.—Not later than the
11 date on which an alien’s status is adjusted as
12 described in this subsection, the alien shall es-
13 tablish that the alien does not owe any applica-
14 ble Federal tax liability by establishing that—

15 “(i) no such tax liability exists;

16 “(ii) all such outstanding tax liabil-
17 ities have been paid; or

18 “(iii) the alien has entered into an
19 agreement for payment of all outstanding
20 liabilities with the Internal Revenue Serv-
21 ice.

22 “(B) APPLICABLE FEDERAL TAX LIABIL-
23 ITY.—In this paragraph, the term ‘applicable
24 Federal tax liability’ means liability for Federal
25 taxes, including penalties and interest, owed for

1 any year during the period of employment re-
2 quired under paragraph (1)(A) for which the
3 statutory period for assessment of any defi-
4 ciency for such taxes has not expired.

5 “(C) IRS COOPERATION.—The Secretary
6 of the Treasury shall establish rules and proce-
7 dures under which the Commissioner of Inter-
8 nal Revenue shall provide documentation to an
9 alien upon request to establish the payment of
10 all taxes required by this subsection.

11 “(6) ENGLISH LANGUAGE.—

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

20 “(B) EXCEPTION.—The requirement of
21 subparagraph (A) shall not apply to any person
22 who, on the date of the filing of the person’s
23 application for an extension of Z–A non-
24 immigrant status—

1 “(i) is unable because of physical or
2 developmental disability or mental impair-
3 ment to comply therewith;

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

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

10 “(7) PRIORITY OF APPLICATIONS.—

11 “(A) BACK OF LINE.—An alien may not
12 adjust status to that of a lawful permanent
13 resident under this subsection until 30 days
14 after the date on which an immigrant visa be-
15 comes available for approved petitions filed
16 under sections 201, 202, and 203 that were
17 filed before May 1, 2005 (referred to in this
18 paragraph as the ‘processing date’).

19 “(B) OTHER APPLICANTS.—The proc-
20 essing of applications for an adjustment of sta-
21 tus under this subsection shall be processed not
22 later than 1 year after the processing date.

23 “(C) CONSULAR APPLICATION.—

24 “(i) IN GENERAL.—A Z-A non-
25 immigrant’s application for adjustment of

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

5 “(ii) PLACE OF APPLICATION.—Un-
6 less otherwise directed by the Secretary of
7 State, a Z–A nonimmigrant applying for
8 adjustment of status under this paragraph
9 shall make an application at a consular of-
10 fice in the alien’s country of origin. The
11 Secretary of State shall direct a consular
12 office in a country that is not a Z–A non-
13 immigrant’s country of origin to accept an
14 application for adjustment of status from
15 such an alien, where the Z–A non-
16 immigrant’s country of origin is not contig-
17 uous to the United States, and as consular
18 resources make possible.

19 “(k) CONFIDENTIALITY OF INFORMATION.—Appli-
20 cants for Z–A nonimmigrant status under this section
21 shall be afforded confidentiality as provided under section
22 __04 of the Secure Borders, Economic Opportunity and
23 Immigration Reform Act of 2007.

24 “(l) PENALTIES FOR FALSE STATEMENTS IN APPLI-
25 CATIONS.—

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

2 “(A) applies for a Z–A visa or a Z–A de-
3 pendent visa under this section or an adjust-
4 ment of status described in subsection (j) and
5 knowingly and willfully falsifies, conceals, or
6 covers up a material fact or makes any false,
7 fictitious, or fraudulent statements or represen-
8 tations, or makes or uses any false writing or
9 document knowing the same to contain any
10 false, fictitious, or fraudulent statement or
11 entry; or

12 “(B) creates or supplies a false writing or
13 document for use in making such an applica-
14 tion,
15 shall be fined in accordance with title 18, United
16 States Code, imprisoned not more than 5 years, or
17 both.

18 “(2) INADMISSIBILITY.—An alien who is con-
19 victed of a crime under paragraph (1) shall be con-
20 sidered to be inadmissible to the United States on
21 the ground described in section 212(a)(6)(C)(i).

22 “(m) ELIGIBILITY FOR LEGAL SERVICES.—Section
23 504(a)(11) of Public Law 104–134 (110 Stat. 1321–54)
24 shall not be construed to prevent a recipient of funds
25 under the Legal Services Corporation Act (42 U.S.C. 2996

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

4 “(n) ADMINISTRATIVE AND JUDICIAL REVIEW.—Ad-
5 ministrative or judicial review of a determination on an
6 application for a Z–A visa shall be such as is provided
7 under section __03 of the Secure Borders, Economic Op-
8 portunity and Immigration Reform Act of 2007.

9 “(o) PUBLIC OUTREACH.—Beginning not later than
10 the first day of the application period described in sub-
11 section (c)(1)(B), the Secretary shall cooperate with quali-
12 fied designated entities to broadly disseminate information
13 regarding the availability of Z–A visas, the benefits of
14 such visas, and the requirements to apply for and be
15 granted such a visa.”.

16 (c) NUMERICAL LIMITATIONS.—

17 (1) WORLDWIDE LEVEL OF IMMIGRATION.—
18 Section 201(b)(1) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1151(b)(1)), as amended by this
20 Act, is further amended—

21 (A) in subparagraph (A), by striking “sub-
22 paragraph (A) or (B)” and inserting “subpara-
23 graph (A), (B), or (N)”; and

24 (B) by adding at the end the following:

1 “(N) Aliens issued a Z–A visa or a Z–A de-
2 pendent visa (as those terms are defined in section
3 214A) who receive an adjustment of status to that
4 of an alien lawfully admitted for permanent resi-
5 dence.”.

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

10 “(6) SPECIAL RULE FOR Z–A NON-
11 IMMIGRANTS.—An immigrant visa may be made
12 available to an alien issued a Z–A visa or a Z–A de-
13 pendent visa (as those terms are defined in section
14 214A) without regard to the numerical limitations of
15 this section.”.

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

 “Sec. 214A. Admission of agricultural workers.”.

20 **SEC. 32. AGRICULTURAL WORKER IMMIGRATION STATUS**
21 **ADJUSTMENT ACCOUNT.**

22 Section 286 of the Immigration and Nationality Act
23 (8 U.S.C. 1356) is amended by adding at the end the fol-
24 lowing:

1 “(y) AGRICULTURAL WORKER IMMIGRATION STATUS
2 ADJUSTMENT ACCOUNT.—

3 “(1) ESTABLISHMENT.—There is established in
4 the general fund of the Treasury a separate account,
5 which shall be known as the ‘Agricultural Worker
6 Immigration Status Adjustment Account’. Notwith-
7 standing any other provision of law, there shall be
8 deposited as offsetting receipts into the account all
9 fees collected under section 214A.

10 “(2) USE OF FEES.—The fees deposited into
11 the Agricultural Worker Immigration Status Adjust-
12 ment Account shall be used by the Secretary of
13 Homeland Security for processing applications made
14 by aliens seeking nonimmigrant status under section
15 101(a)(15)(Z–A) or for processing applications made
16 by such an alien who is seeking an adjustment of
17 status.

18 “(3) AVAILABILITY OF FUNDS.—All amounts
19 deposited in the Agricultural Worker Immigration
20 Status Adjustment Account under this subsection
21 shall remain available until expended.”.

22 **SEC. 33. REGULATIONS; EFFECTIVE DATE; AUTHORIZA-**
23 **TION OF APPROPRIATIONS.**

24 (a) REGULATIONS.—The Secretary shall issue regula-
25 tions to carry out the amendments made by this subtitle

1 not later than the first day of the seventh month that be-
2 gins after the date of the enactment of this Act.

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary such
9 sums as may be necessary to implement this subtitle and
10 the amendments made by this subtitle, including any sums
11 needed for costs associated with the initiation of such im-
12 plementation.

13 **SEC. 34. CORRECTION OF SOCIAL SECURITY RECORDS.**

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

16 (1) in subparagraph (B)(ii), by striking “or” at
17 the end;

18 (2) in subparagraph (C), by inserting “or” at
19 the end;

20 (3) by inserting after subparagraph (C) the fol-
21 lowing:

22 “(D) who is granted nonimmigrant status
23 pursuant to section 101(a)(15)(Z–A) of the Im-
24 migration and Nationality Act,”; and

1 (4) by striking “1990.” and inserting “1990, or
2 in the case of an alien described in subparagraph
3 (D), if such conduct is alleged to have occurred be-
4 fore the date on which the alien was granted such
5 nonimmigrant status.”.

6 (b) **EFFECTIVE DATE.**—The amendments made by
7 subsection (a) shall take effect on the first day of the sev-
8 enth month that begins after the date of the enactment
9 of this Act.

1 **SEC. ____ . ESTABLISHMENT OF Z NONIMMIGRANT CAT-**
2 **EGORY.**

3 (a) IN GENERAL.—Section 101(a)(15)(Z) of the Im-
4 migration and Nationality Act, as added by section
5 601(b), is amended to read as follows:

6 “(Z) subject to title VI of the Secure Bor-
7 ders, Economic Opportunity and Immigration
8 Reform Act of 2007, an alien who—

9 “(i)(I) has maintained a continuous
10 physical presence in the United States
11 since the date that is 4 years before the
12 date of the enactment of the Secure Bor-
13 ders, Economic Opportunity and Immigra-
14 tion Reform Act of 2007;

15 “(II) is employed, and seeks to con-
16 tinue performing labor, services, or edu-
17 cation; and

18 “(III) the Secretary of Homeland Se-
19 curity determines has sufficient ties to a
20 community in the United States, based
21 on—

22 “(aa) whether the applicant has
23 immediate relatives (as defined in sec-
24 tion 201(b)(2)(A)) residing in the
25 United States;

1 “(bb) the amount of cumulative
2 time the applicant has lived in the
3 United States;

4 “(cc) whether the applicant owns
5 property in the United States;

6 “(dd) whether the applicant owns
7 a business in the United States;

8 “(ee) the extent to which the ap-
9 plicant knows the English language;

10 “(ff) the applicant’s work history
11 in the United States;

12 “(gg) whether the applicant at-
13 tended school (either primary, sec-
14 ondary, college, post-graduate) in the
15 United States;

16 “(hh) the extent to which the ap-
17 plicant has a history of paying Fed-
18 eral and State income taxes;

19 “(ii) whether the applicant has
20 been convicted of criminal activity in
21 the United States; and

22 “(jj) whether the applicant has
23 certifies his or her intention to ul-
24 timately become a United States cit-
25 izen;

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

4 “(II) was, during the 2-year period
5 ending on the date on which the Secure
6 Borders, Economic Opportunity and Immi-
7 gration Reform Act of 2007 was intro-
8 duced in the Senate, the spouse of an alien
9 who was subsequently classified as a Z
10 nonimmigrant under this section, or is eli-
11 gible for such classification, if—

12 “(aa) the termination of the rela-
13 tionship with such spouse was con-
14 nected to domestic violence; and

15 “(bb) the spouse has been bat-
16 tered or subjected to extreme cruelty
17 by the spouse or parent who is a Z
18 nonimmigrant; or

19 “(III) is under 18 years of age at the
20 time of application for nonimmigrant sta-
21 tus under this subparagraph and was born
22 to, or legally adopted by, a parent de-
23 scribed in clause (i).”.

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

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

7 (c) ADDITIONAL Z NONIMMIGRANT ELIGIBILITY RE-
8 QUIREMENTS.—

9 (1) IN GENERAL.—Notwithstanding any provi-
10 sion of section 601(e), an alien is not eligible for Z-
11 1 or Z-2 nonimmigrant status, or for nonimmigrant
12 status under section 101(a)(15)(Z)(iii)(I) of the Im-
13 migration and Nationality Act unless—

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

19 (B) the alien was, on the date that is 4
20 years before the date of the enactment of this
21 Act, not present in lawful status in the United
22 States under any classification described in sec-
23 tion 101(a)(15) of the Immigration and Nation-
24 ality Act or any other immigration status made

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

3 (2) TREATMENT OF APPLICANTS.—Notwith-
4 standing any provision of section 601(h), an alien
5 who files an application for Z nonimmigrant status
6 shall submit sufficient evidence that the alien resided
7 in the United States for not less than 4 years before
8 the date of the enactment of this Act before receiv-
9 ing any benefit under section 601(h).

10 (3) APPLICATION.—Notwithstanding any provi-
11 sion of section 602(a)(1), a Z-1 nonimmigrant's ap-
12 plication for adjustment of status to that of an alien
13 lawfully admitted for permanent residence may be
14 filed in person with a United States consulate out-
15 side the United States or with United States Citi-
16 zenship and Immigration Services at any location in
17 the United States designated by the Secretary.

1 **SEC. ____ . PROHIBITION ON ADJUSTMENT OF STATUS FOR**
2 **Z NONIMMIGRANTS.**

3 Notwithstanding any provision of section 602—

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

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

1 **SEC. ____ . FAMILY-SPONSORED IMMIGRANTS.**

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

6 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-
7 SORED IMMIGRANTS.—Aliens subject to the worldwide
8 level specified in section 201(c) for family-sponsored immi-
9 grants shall be allotted immigrant visas as follows:

10 “(1) PARENTS OF A CITIZEN OF THE UNITED
11 STATES IF THE CITIZEN IS AT LEAST 21 YEARS OF
12 AGE.—Qualified immigrants who are the parents of
13 a citizen of the United States if the citizen at least
14 21 years of age shall be allocated immigrant visas in
15 a number not to exceed the sum of—

16 “(A) 90,000; and

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

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

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

3 “(A) 87,000; and

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

6 “(3) FAMILY-SPONSORED IMMIGRANTS WHO
7 ARE BENEFICIARIES OF FAMILY-BASED VISA PETI-
8 TIONS FILED BEFORE MAY 1, 2005.—Immigrant visas
9 totaling 440,000 shall be allotted as follows:

10 “(A) Qualified immigrants who are the un-
11 married sons or daughters of citizens of the
12 United States shall be allocated visas in a num-
13 ber not to exceed the sum of—

14 “(i) 70,400; and

15 “(ii) the number of visas not required
16 for the class specified in subparagraph
17 (D).

18 “(B) Qualified immigrants who are the un-
19 married sons or unmarried daughters of an
20 alien lawfully admitted for permanent residence,
21 shall be allocated visas in a number not to ex-
22 ceed the sum of—

23 “(i) 110,000; and

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

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

5 “(i) 70,400; and

6 “(ii) the number of visas not required
7 for the classes specified in subparagraphs
8 (A) and (B).

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

14 “(i) 189,200; and

15 “(ii) the number of visas not required
16 for the classes specified in subparagraphs
17 (A), (B), and (C).”.

18 (b) PARENT VISITOR VISAS.—Section 214(s) of the
19 Immigration and Nationality Act, as added by section
20 506(b) of this Act, is amended to read as follows:

21 “(s) PARENT VISITOR VISAS.—

22 “(1) IN GENERAL.—The parent of a United
23 States citizen at least 21 years of age, or the spouse
24 or child of an alien in nonimmigrant status under
25 101(a)(15)(Y)(i), demonstrating satisfaction of the

1 requirements of this subsection may be granted a re-
2 newable nonimmigrant visa valid for 3 years for a
3 visit or visits for an aggregate period not in excess
4 of 180 days in any one year period under section
5 101(a)(15)(B) as a temporary visitor for pleasure.

6 “(2) REQUIREMENTS.—An alien seeking a non-
7 immigrant visa under this subsection must dem-
8 onstrate through presentation of such documentation
9 as the Secretary may by regulations prescribe,
10 that—

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

16 “(B) the sponsoring United States citizen,
17 or spouse or parent in nonimmigrant status
18 under 101(a)(15)(Y)(i), has, according to such
19 procedures as the Secretary may by regulations
20 prescribe, posted on behalf of the alien a bond
21 in the amount of \$1,000, which shall be for-
22 feited if the alien overstays the authorized pe-
23 riod of admission (except as provided in sub-
24 paragraph (5)(B)) or otherwise violates the

1 terms and conditions of his or her non-
2 immigrant status; and

3 “(C) the alien, the sponsoring United
4 States citizen son or daughter, or the spouse or
5 parent in nonimmigrant status under
6 101(a)(15)(Y)(i), possesses the ability and fi-
7 nancial means to return the alien to his or her
8 country of residence.

9 “(3) TERMS AND CONDITIONS.—An alien ad-
10 mitted as a visitor for pleasure under the provisions
11 of this subsection—

12 “(A) may not stay in the United States for
13 an aggregate period in excess of 180 days with-
14 in any calendar year unless an extension of stay
15 is granted upon the specific approval of the dis-
16 trict director for good cause;

17 “(B) shall, according to such procedures as
18 the Secretary may by regulations prescribe, reg-
19 ister with the Secretary upon departure from
20 the United States; and

21 “(C) may not be issued employment au-
22 thorization by the Secretary or be employed.

23 “(4) PERMANENT BARS FOR OVERSTAYS.—

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

1 ditions of this subsection who remains in the
2 United States beyond his or her authorized pe-
3 riod of admission is permanently barred from
4 any future immigration benefits under the im-
5 migration laws, except—

6 “(i) asylum under section 208(a);

7 “(ii) withholding of removal under
8 section 241(b)(3); or

9 “(iii) protection under the Convention
10 Against Torture and Other Cruel, Inhu-
11 man or Degrading Treatment or Punish-
12 ment, done at New York December 10,
13 1984.

14 “(B) EXCEPTION.—Overstay of the au-
15 thorized period of admission granted to aliens
16 admitted as visitors for pleasure under the
17 terms and conditions of this subsection may be
18 excused in the discretion of the Secretary where
19 it is demonstrated that:

20 “(i) the period of overstay was due to
21 extraordinary circumstances beyond the
22 control of the applicant, and the Secretary
23 finds the period commensurate with the
24 circumstances; and

1 “(ii) the alien has not otherwise vio-
2 lated his or her nonimmigrant status.

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

6 “(A) admitted as a visitor for pleasure
7 under the terms and conditions of this sub-
8 section, and

9 “(B) who remains in the United States be-
10 yond his or her authorized period of admission,
11 shall be permanently barred from sponsoring that
12 alien for admission as a visitor for pleasure under
13 the terms and conditions of this subsection, and, in
14 the case of a Y–1 nonimmigrant sponsor, shall have
15 his Y–1 nonimmigrant status terminated.

16 “(6) CONSTRUCTION.—Except as specifically
17 provided in this subsection, nothing in this sub-
18 section may be construed to make inapplicable—

19 “(A) the requirements for admissibility
20 and eligibility; or

21 “(B) the terms and conditions of admis-
22 sion as a nonimmigrant under section
23 101(a)(15)(B).”.

24

1 **SEC. ____ . REDUCING CHAIN MIGRATION AND PERMITTING**
2 **PETITIONS BY NATIONALS.**

3 (a) PREFERENCE CATEGORIES.—Section 203(a)(2)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1153(a)), as amended by section 503(c), is further amend-
6 ed—

7 (1) by striking “not to exceed” and inserting
8 “equal to”; and

9 (2) by adding at the end the following: “If the
10 number of visas issued pursuant to this paragraph
11 is fewer than 87,000, such unused visas may be
12 available for visas issued pursuant to paragraph
13 (1).”.

14 (b) PARENT VISITOR VISAS.—Section 214(s)(4) of
15 the Immigration and Nationality Act, as added by section
16 506(b), is amended by striking “7 percent” each place it
17 appears and inserting “5 percent”.

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

3 Section 203(b)(1)(A) of the Immigration and Nation-
 4 ality Act, as amended by section 502(b)(1), is amended
 5 by striking the merit-based evaluation system set forth in
 6 all the matter relating to “Extended family” and insert
 7 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

1 **SEC. ____ . IDENTIFICATION CARD STANDARDS.**

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

3 (b) LIMITATION.—Notwithstanding any other provi-
4 sion of this Act or the amendments made by this Act—

5 (1) no Federal agency may require that a driv-
6 er's license or personal identification card meet the
7 standards specified under the REAL ID Act of 2005
8 (division B of Public Law 109–13) to establish em-
9 ployment authorization or identity in order to be
10 hired by an employer; and

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

1 **TITLE _____ —UNLAWFUL**
2 **EMPLOYMENT OF ALIENS**

3 **SEC. _01. REPEAL OF TITLE III.**

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

6 **SEC. _02. UNLAWFUL EMPLOYMENT OF ALIENS.**

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

10 **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

11 “(a) MAKING EMPLOYMENT OF UNAUTHORIZED
12 ALIENS UNLAWFUL.—

13 “(1) IN GENERAL.—It is unlawful for an em-
14 ployer—

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

20 “(B) to hire, or to recruit or refer for a
21 fee, an individual for employment in the United
22 States, unless such employer meets the require-
23 ments of subsections (c) and (d).

24 “(2) CONTINUING EMPLOYMENT.—It is unlaw-
25 ful for an employer, after hiring an alien for employ-

1 ment, to continue to employ the alien in the United
2 States knowing, or with reckless disregard for the
3 fact that, the alien is (or has become) an unauthor-
4 ized alien with respect to such employment.

5 “(3) USE OF LABOR THROUGH CONTRACT.—

6 “(A) IN GENERAL.—It is unlawful for an
7 employer to obtain, or continue to obtain, the
8 labor of an alien through a contract, sub-
9 contract, or exchange knowing that the alien is,
10 or has become, an unauthorized alien with re-
11 spect to such employment

12 “(B) REBUTTABLE PRESUMPTION.—There
13 shall be a rebuttable presumption that the em-
14 ployer has violated subparagraph (A) if the em-
15 ployer fails to terminate such contract or sub-
16 contract upon written or electronic notice from
17 the Secretary that such alien is, or has become,
18 an unauthorized alien with respect to such em-
19 ployment.

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

23 “(4) DEFENSE.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), an employer that establishes that

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

6 “(B) EXCEPTION.—Until the date that an
7 employer is required to participate in the Elec-
8 tronic Employment Verification System under
9 subsection (d) or is participating in such Sys-
10 tem on a voluntary basis, the employer may es-
11 tablish an affirmative defense under subpara-
12 graph (A) by complying with the requirements
13 of subsection (c).

14 “(b) ORDER OF INTERNAL REVIEW AND CERTIFI-
15 CATION OF COMPLIANCE.—

16 “(1) AUTHORITY TO REQUIRE CERTIFI-
17 CATION.—If the Secretary has reasonable cause to
18 believe that an employer has failed to comply with
19 this section, the Secretary is authorized, at any time,
20 to require that the employer certify that the em-
21 ployer is in compliance with this section, or has in-
22 stituted a program to come into compliance.

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

1 employer shall certify under penalty of perjury
2 that—

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

5 “(B) that the employer has instituted a
6 program to come into compliance with such re-
7 quirements.

8 “(3) EXTENSION.—The 60-day period referred
9 to in paragraph (2), may be extended by the Sec-
10 retary for good cause, at the request of the em-
11 ployer.

12 “(4) PUBLICATION.—The Secretary is author-
13 ized to publish in the Federal Register standards or
14 methods for certification under paragraph (1) and
15 for specific recordkeeping practices with respect to
16 such certification, and procedures for the audit of
17 any records related to such certification.

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

23 “(1) ATTESTATION BY EMPLOYER.—

24 “(A) REQUIREMENTS.—

1 “(i) IN GENERAL.—The employer
2 shall attest, under penalty of perjury and
3 on a form prescribed by the Secretary, that
4 the employer has verified the identity and
5 eligibility for employment of the individual
6 by examining a document described in sub-
7 paragraph (B).

8 “(ii) SIGNATURE REQUIREMENTS.—
9 An attestation required by clause (i) may
10 be manifested by a handwritten or elec-
11 tronic signature.

12 “(iii) STANDARDS FOR EXAMINA-
13 TION.—The employer has complied with
14 the requirement of this paragraph with re-
15 spect to examination of documentation if a
16 reasonable person would conclude that the
17 document examined is genuine and relates
18 to the individual whose identity and eligi-
19 bility for employment in the United States
20 is being verified. If the individual provides
21 a document sufficient to meet the require-
22 ments of this paragraph, nothing in this
23 paragraph shall be construed as requiring
24 an employer to solicit any other document

1 or as requiring the individual to produce
2 any other document.

3 “(B) IDENTIFICATION DOCUMENTS.—A
4 document described in this subparagraph is—

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

7 “(I) a United States passport, or
8 passport card issued pursuant to the
9 Secretary of State’s authority under
10 the first section of the Act of July 3,
11 1926 (44 Stat. 887, Chapter 772; 22
12 U.S.C. 211a); or

13 “(II) a driver’s license or identity
14 card issued by a State, the Common-
15 wealth of the Northern Mariana Is-
16 lands, or an outlying possession of the
17 United States that—

18 “(aa) contains a photograph
19 of the individual and other identi-
20 fying information, including the
21 individual’s name, date of birth,
22 gender, and address; and

23 “(bb) contains security fea-
24 tures to make the license or card

1 resistant to tampering, counter-
2 feiting, and fraudulent use;

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

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

15 “(iv) in the case of an individual who
16 is unable to obtain a document described
17 in clause (i), (ii), or (iii), a document des-
18 ignated by the Secretary that meets the re-
19 quirements of such items (aa) and (bb).

20 “(C) AUTHORITY TO PROHIBIT USE OF
21 CERTAIN DOCUMENTS.—

22 “(i) AUTHORITY.—If the Secretary
23 finds that a document or class of docu-
24 ments described in subparagraph (B) is
25 not reliable to establish identity or is being

1 used fraudulently to an unacceptable de-
2 gree, the Secretary shall prohibit, or im-
3 pose conditions, on the use of such docu-
4 ment or class of documents for purposes of
5 this subsection.

6 “(ii) REQUIREMENT FOR PUBLICA-
7 TION.—The Secretary shall publish notice
8 of any findings under clause (i) in the Fed-
9 eral Register.

10 “(2) ATTESTATION OF EMPLOYEE.—

11 “(A) REQUIREMENTS.—

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

20 “(ii) SIGNATURE FOR EXAMINA-
21 TION.—An attestation required by clause
22 (i) may be manifested by a handwritten or
23 electronic signature.

24 “(B) PENALTIES.—An individual who
25 falsely represents that the individual is eligible

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

6 “(3) RETENTION OF ATTESTATION.—The em-
7 ployer shall retain a paper, microfiche, microfilm, or
8 electronic version of the attestations made under
9 paragraphs (1) and (2) and make such attestations
10 available for inspection by an officer of the Depart-
11 ment of Homeland Security, any other person des-
12 ignated by the Secretary, the Special Counsel for
13 Immigration-Related Unfair Employment Practices
14 of the Department of Justice, or the Secretary of
15 Labor during a period beginning on the date of the
16 hiring, or recruiting or referring for a fee, of the in-
17 dividual and ending—

18 “(A) in the case of the recruiting or refer-
19 ral for a fee (without hiring) of an individual,
20 5 years after the date of the recruiting or refer-
21 ral; or

22 “(B) in the case of the hiring of an indi-
23 vidual the later of—

24 “(i) 5 years after the date of such hir-
25 ing;

1 “(ii) 1 year after the date the individ-
2 ual’s employment is terminated; or

3 “(iii) in the case of an employer or
4 class of employers, a period that is less
5 than the applicable period described in
6 clause (i) or (ii) if the Secretary reduces
7 such period for such employer or class of
8 employers.

9 “(4) DOCUMENT RETENTION AND RECORD-
10 KEEPING REQUIREMENTS.—

11 “(A) RETENTION OF DOCUMENTS.—Not-
12 withstanding any other provision of law, an em-
13 ployer shall retain, for the applicable period de-
14 scribed in paragraph (3), the following docu-
15 ments:

16 “(i) IN GENERAL.—The employer
17 shall copy all documents presented by an
18 individual described in paragraph (1)(B)
19 and shall retain paper, microfiche, micro-
20 film, or electronic copies of such docu-
21 ments. Such copies shall be designated as
22 copied documents.

23 “(ii) OTHER DOCUMENTS.—The em-
24 ployer shall maintain records of any action
25 taken and copies of any correspondence

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

5 “(B) USE OF RETAINED DOCUMENTS.—An
6 employer shall use copies retained under clause
7 (i) or (ii) of subparagraph (A) only for the pur-
8 poses of complying with the requirements of
9 this subsection, except as otherwise permitted
10 under law.

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

15 “(6) NO AUTHORIZATION OF NATIONAL IDENTI-
16 FICATION CARDS.—Nothing in this section may be
17 construed to authorize, directly or indirectly, the
18 issuance, use, or establishment of a national identi-
19 fication card.

20 “(d) ELECTRONIC EMPLOYMENT VERIFICATION SYS-
21 TEM.—

22 “(1) REQUIREMENT FOR SYSTEM.—The Sec-
23 retary, in cooperation with the Commissioner of So-
24 cial Security, shall implement an Electronic Employ-

1 6103(l)(21) of the Internal Revenue Code
2 of 1986; and

3 “(ii) has not been previously verified
4 through the System.

5 “(3) OTHER PARTICIPATION IN SYSTEM.—Not-
6 withstanding paragraph (2), the Secretary has the
7 authority—

8 “(A) to permit any employer that is not re-
9 quired to participate in the System under para-
10 graph (2) to participate in the System on a vol-
11 untary basis; and

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

17 “(i) if the Secretary designates such
18 employer or class of employers as a critical
19 employer based on an assessment of home-
20 land security or national security needs; or

21 “(ii) if the Secretary has reasonable
22 cause to believe that the employer has en-
23 gaged in material violations of paragraph
24 (1), (2), or (3) of subsection (a).

1 “(4) REQUIREMENT TO NOTIFY.—The Sec-
2 retary shall notify the employer or class of employers
3 in writing regarding the requirement for participa-
4 tion in the System under paragraph (2) or (3)(B)
5 not less than 60 days prior to the effective date of
6 such requirement. Such notice shall include the
7 training materials described in paragraph (8)(E)(iv).

8 “(5) REGISTRATION OF EMPLOYERS.—An em-
9 ployer shall register the employer’s participation in
10 the System in the manner prescribed by the Sec-
11 retary prior to the date the employer is required or
12 permitted to submit information with respect to an
13 employee under this subsection.

14 “(6) ADDITIONAL GUIDANCE.—A registered em-
15 ployer shall be permitted to utilize any technology
16 that is consistent with this section and with any reg-
17 ulation or guidance from the Secretary to streamline
18 the procedures to facilitate compliance with—

19 “(A) the attestation requirement in sub-
20 section (c); and

21 “(B) the employment eligibility verification
22 requirements in this subsection.

23 “(7) CONSEQUENCE OF FAILURE TO PARTICI-
24 PATE.—If an employer is required to participate in

1 the System and fails to comply with the require-
2 ments of the System with respect to an employee—

3 “(A) such failure shall be treated as a vio-
4 lation of subsection (a)(1)(B); and

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

9 “(8) DESIGN AND OPERATION OF SYSTEM.—

10 “(A) IN GENERAL.—The Secretary shall,
11 through the System—

12 “(i) respond to each inquiry made by
13 a registered employer through the Internet
14 or other electronic media, or over a toll-
15 free telephone line regarding an individ-
16 ual’s identity and eligibility for employ-
17 ment in the United States; and

18 “(ii) maintain a record of each such
19 inquiry and the information provided in re-
20 sponse to such inquiry.

21 “(B) INITIAL INQUIRY.—

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

1 United States, obtain from the individual
2 and record on the form described in sub-
3 section (c)(1)(A)(i)—

4 “(I) the individual’s name and
5 date of birth;

6 “(II) the individual’s social secu-
7 rity account number;

8 “(III) the identification number
9 contained on the document presented
10 by the individual pursuant to sub-
11 section (c)(1)(B); and

12 “(IV) in the case of an individual
13 who does not attest that the indi-
14 vidual is a national of the United
15 States under subsection (c)(1)(A)(i),
16 such alien identification or authoriza-
17 tion number that the Secretary shall
18 require.

19 “(ii) SUBMISSION TO SYSTEM.—A reg-
20 istered employer shall submit an inquiry
21 through the System to seek confirmation of
22 the individual’s identity and eligibility for
23 employment in the United States—

24 “(I) not earlier than the date of
25 hire and no later than the first day of

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

4 “(II) in the case of an employee
5 hired before such employer was re-
6 quired to participate in the system, at
7 such time as the Secretary shall speci-
8 fy.

9 “(C) INITIAL RESPONSE.—Not later than
10 3 days after an employer submits an inquiry to
11 the System regarding an individual, the Sec-
12 retary shall provide, through the System, to the
13 employer—

14 “(i) if the System is able to confirm
15 the individual’s identity and eligibility for
16 employment in the United States, a con-
17 firmation notice, including the appropriate
18 codes on such confirmation notice; or

19 “(ii) if the System is unable to con-
20 firm the individual’s identity or eligibility
21 for employment in the United States, and
22 after a secondary manual verification has
23 been conducted, a tentative nonconfirma-
24 tion notice, including the appropriate codes
25 on such tentative nonconfirmation notice.

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

10 “(iv) CONTEST.—If the individual
11 contests the tentative nonconfirmation no-
12 tice, the individual shall submit appro-
13 priate information to contest such notice
14 under the procedures established in sub-
15 paragraph (E)(ii) not later than 10 days
16 after receiving the notice from the individ-
17 ual's employer.

18 “(v) EFFECTIVE PERIOD OF TEN-
19 TATIVE NONCONFIRMATION NOTICE.—A
20 tentative nonconfirmation notice shall re-
21 main in effect until such notice becomes
22 final under clause (iii) or a final confirma-
23 tion notice or final nonconfirmation notice
24 is issued through the System.

1 “(vi) EFFECTIVE PERIOD OF FINAL
2 NOTICE.—A final confirmation notice
3 issued under this paragraph for an indi-
4 vidual shall remain in effect—

5 “(I) during any continuous pe-
6 riod of employment of such individual
7 by such employer, unless the Sec-
8 retary determines the final confirma-
9 tion was the result of error or fraud;
10 or

11 “(II) in the case of an alien au-
12 thorized to be employed in the United
13 States for a temporary period, during
14 such period.

15 “(vii) PROHIBITION ON TERMI-
16 NATION.—An employer may not terminate
17 such employment of an individual based on
18 a tentative nonconfirmation notice until
19 such notice becomes final under clause (iii)
20 or a final nonconfirmation notice is issued
21 for the individual by the System. Nothing
22 in this clause shall prohibit the termination
23 of such employment for any reason other
24 than such tentative nonconfirmation.

1 “(viii) RECORDING OF CONTEST RESO-
2 LUTION.—The employer shall record on
3 the form described in subsection
4 (c)(1)(A)(i) the appropriate code that is
5 provided through the System to indicate a
6 final confirmation notice or final noncon-
7 firmation notice.

8 “(ix) CONSEQUENCES OF NONCON-
9 FIRMATION.—If the employer has received
10 a final nonconfirmation regarding an indi-
11 vidual, the employer shall immediately ter-
12 minate the employment, recruitment, or re-
13 ferral of the individual. Such employer
14 shall provide to the Secretary any informa-
15 tion relating to the individual that the Sec-
16 retary determines would assist the Sec-
17 retary in enforcing or administering the
18 immigration laws. If the employer con-
19 tinues to employ, recruit, or refer the indi-
20 vidual after receiving final nonconfirma-
21 tion, a rebuttable presumption is created
22 that the employer has violated subsections
23 (a)(1)(A) and (a)(2). Such presumption
24 may not apply to a prosecution under sub-
25 section (f)(1).

1 “(E) RESPONSIBILITIES OF THE SEC-
2 RETARY.—

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

7 “(I) a determination of whether
8 the name and alien identification or
9 authorization number provided in an
10 inquiry by an employer is consistent
11 with such information maintained by
12 the Secretary in order to confirm the
13 validity of the information provided;
14 and

15 “(II) a determination of whether
16 the individual is authorized to be em-
17 ployed in the United States.

18 “(ii) CONTEST AND SELF-
19 VERIFICATION.—The Secretary in con-
20 sultation with the Commissioner of Social
21 Security, shall establish procedures to per-
22 mit an individual who contests a tentative
23 or final nonconfirmation notice, or seeks to
24 verify the individual’s own employment eli-
25 gibility prior to obtaining or changing em-

1 ployment, to contact the appropriate agen-
2 cy and, in a timely manner, correct or up-
3 date the information used by the System.

4 “(iii) INFORMATION TO EMPLOYEE.—
5 The Secretary shall develop a written form
6 for employers to provide to individuals who
7 receive a tentative or final nonconfirmation
8 notice. Such form shall be made available
9 in a language other than English, as nec-
10 essary and reasonable, and shall include—

11 “(I) information about the reason
12 for such notice;

13 “(II) the right to contest such
14 notice;

15 “(III) contact information for the
16 appropriate agency and instructions
17 for initiating such contest; and

18 “(IV) a 24-hour toll-free tele-
19 phone number to respond to inquiries
20 related to such notice.

21 “(iv) TRAINING MATERIALS.—The
22 Secretary shall make available or provide
23 to the employer, upon request, not later
24 than 60 days prior to such employer’s par-
25 ticipation in the System, appropriate train-

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

4 “(F) RESPONSIBILITIES OF THE COMMIS-
5 SIONER OF SOCIAL SECURITY.—The responsibil-
6 ities of the Commissioner of Social Security
7 with respect to the System are set out in sec-
8 tion 205(c)(2) of the Social Security Act.

9 “(G) RESPONSIBILITIES OF THE SEC-
10 RETARY OF STATE.—The Secretary of State
11 shall establish a reliable, secure method to pro-
12 vide through the System a confirmation of the
13 issuance of identity documents described in sub-
14 section (c)(1)(B)(i)(I) and transmit to the Sec-
15 retary the related photographic image or other
16 identifying information.

17 “(H) RESPONSIBILITIES OF A STATE.—
18 The official responsible for issuing drivers’ li-
19 censes and identity cards for a State shall es-
20 tablish a reliable, secure method to provide
21 through the System a confirmation of the
22 issuance of identity documents described in sub-
23 section (c)(1)(B)(i)(II) and transmit to the Sec-
24 retary the related photographic image or other
25 identifying information.

1 “(9) PROTECTION FROM LIABILITY.—No em-
2 ployer that participates in the System shall be liable
3 under any law for any employment-related action
4 taken with respect to an individual in good faith reli-
5 ance on information provided by the System.

6 “(10) ADMINISTRATIVE REVIEW.—

7 “(A) IN GENERAL.—An individual who is
8 terminated from employment as a result of a
9 final nonconfirmation notice may, not later than
10 30 days after the date of such termination, file
11 an appeal of such notice.

12 “(B) PROCEDURES.—The Secretary and
13 Commissioner of Social Security shall develop
14 procedures to review appeals filed under sub-
15 paragraph (A) and to make final determina-
16 tions on such appeals.

17 “(C) REVIEW FOR ERRORS.—If a final de-
18 termination on an appeal filed under subpara-
19 graph (A) results in a confirmation of an indi-
20 vidual’s eligibility to work in the United States,
21 the administrative review process shall require
22 the Secretary to determine whether the final
23 nonconfirmation notice issued for the individual
24 was the result of—

1 “(i) the decision rules, processes, or
2 procedures utilized by the System;

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

5 “(iii) acts or omissions of an employee
6 or official operating or responsible for the
7 System;

8 “(iv) acts or omissions of the individ-
9 ual’s employer;

10 “(v) acts or omissions of the indi-
11 vidual; or

12 “(vi) any other reason.

13 “(D) COMPENSATION FOR ERROR.—

14 “(i) IN GENERAL.—If the Secretary
15 makes a determination under subpara-
16 graph (C) that the final nonconfirmation
17 notice issued for an individual was caused
18 by a negligent, reckless, willful, or mali-
19 cious act of the government, and was not
20 due to an act or omission of the individual,
21 the Secretary, subject to the availability of
22 appropriations made in accordance with
23 paragraph (12)(B), shall compensate the
24 individual for lost wages.

1 “(ii) CALCULATION OF LOST
2 WAGES.—Lost wages shall be calculated
3 based on the wage rate and work schedule
4 that prevailed prior to termination. The in-
5 dividual shall be compensated for wages
6 lost during the period beginning on the
7 date the individual files a notice of appeal
8 under this paragraph and ending on the
9 earlier of—

10 “(I) the date which is 180 days
11 thereafter; or

12 “(II) the day after the date the
13 individual receives a confirmation de-
14 scribed in subparagraph (C).

15 “(11) JUDICIAL REVIEW.—

16 “(A) IN GENERAL.—After the Secretary
17 makes a final determination on an appeal filed
18 by an individual under the administrative re-
19 view process described in paragraph (10), the
20 individual may obtain judicial review of such
21 determination by a civil action commenced not
22 later than 30 days after the date of such deci-
23 sion, or such further time as the Secretary may
24 allow.

1 “(B) JURISDICTION.—A civil action for
2 such judicial review shall be brought in the dis-
3 trict court of the United States for the judicial
4 district in which the plaintiff resides, or has a
5 principal place of business, or, if the plaintiff
6 does not reside or have a principal place of
7 business within any such judicial district, in the
8 District Court of the United States for the Dis-
9 trict of Columbia.

10 “(C) ANSWER.—As part of the Secretary’s
11 answer to a complaint for such judicial review,
12 the Secretary shall file a certified copy of the
13 administrative record compiled during the ad-
14 ministrative review under paragraph (10), in-
15 cluding the evidence upon which the findings
16 and decision complained of are based. The court
17 shall have power to enter, upon the pleadings
18 and transcript of the record, a judgment affirm-
19 ing or reversing the result of that administra-
20 tive review, with or without remanding the
21 cause for a rehearing.

22 “(D) COMPENSATION FOR ERROR.—

23 “(i) IN GENERAL.—In cases in which
24 such judicial review reverses the final de-
25 termination of the Secretary made under

1 paragraph (10), the court, subject to the
2 availability of appropriations made in ac-
3 cordance with paragraph (12)(B), shall
4 compensate the individual for lost wages.

5 “(ii) CALCULATION OF LOST
6 WAGES.—Lost wages shall be calculated
7 based on the wage rate and work scheduled
8 that prevailed prior to termination. The in-
9 dividual shall be compensated for wages
10 lost during the period beginning on the
11 date the individual files a notice of appeal
12 under paragraph (10) and ending on the
13 earlier of—

14 “(I) the date which is 180 days
15 thereafter; or

16 “(II) the day after the date the
17 individual receives a reversal described
18 in clause (i).

19 “(12) COMPENSATION FOR LOSS OF EMPLOY-
20 MENT.—For purposes of paragraphs (10) and
21 (11)—

22 “(A) LIMITATION ON COMPENSATION.—
23 For purposes of determining an individual’s
24 compensation for the loss of employment, such
25 compensation shall not include any period in

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

3 “(B) AUTHORIZATION OF APPROPRIATION
4 OF FUNDS.—There is authorized to be appro-
5 priated such sums as may be necessary to pro-
6 vide the compensation or reimbursement pro-
7 vided for under such paragraphs. An appropria-
8 tion made pursuant to this authorization shall
9 be in addition to any funds otherwise author-
10 ized to be appropriated to the Department of
11 Homeland Security.

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

14 “(A) LIMITATION ON COLLECTION OF
15 DATA.—

16 “(i) IN GENERAL.—The Secretary
17 shall collect and maintain only the min-
18 imum data necessary to facilitate the suc-
19 cessful operation of the System, and in no
20 case shall the data be other than—

21 “(I) information necessary to
22 register employers under paragraph
23 (5);

1 “(II) information necessary to
2 initiate and respond to inquiries or
3 contests under paragraph (8);

4 “(III) information necessary to
5 establish and enforce compliance with
6 paragraphs (5) and (8);

7 “(IV) information necessary to
8 detect and prevent employment-re-
9 lated identity fraud; and

10 “(V) such other information the
11 Secretary determines is necessary,
12 subject to a 180-day notice and com-
13 ment period in the Federal Register.

14 “(ii) PENALTIES.—Any officer, em-
15 ployee, or contractor who willfully and
16 knowingly collects and maintains data in
17 the System other than data described in
18 clause (i) shall be guilty of a misdemeanor
19 and fined \$1,000 for each violation.

20 “(B) LIMITATION ON USE OF DATA.—
21 Whoever willfully and knowingly accesses, dis-
22 closes, or uses any information obtained or
23 maintained by the System—

24 “(i) for the purpose of committing
25 identity fraud, or assisting another person

1 in committing identity fraud, as defined in
2 section 1028 of title 18, United States
3 Code;

4 “(ii) for the purpose of unlawfully ob-
5 taining employment in the United States
6 or unlawfully obtaining employment in the
7 United States for any other person; or

8 “(iii) for any purpose other than as
9 provided for under any provision of law;

10 shall be guilty of a felony and upon conviction
11 shall be fined under title 18, United States
12 Code, or imprisoned for not more than 5 years,
13 or both.

14 “(C) EXCEPTIONS.—Nothing in subpara-
15 graph (A) or (B) may be construed to limit the
16 collection, maintenance, or use of data by the
17 Commissioner of Internal Revenue or the Com-
18 missioner of Social Security as provided by law.

19 “(14) MODIFICATION AUTHORITY.—The Sec-
20 retary, after notice is submitted to Congress and
21 provided to the public in the Federal Register, is au-
22 thorized to modify the requirements of this sub-
23 section with respect to completion of forms, method
24 of storage, attestations, copying of documents, sig-
25 natures, methods of transmitting information, and

1 other operational and technical aspects to improve
2 the efficiency, accuracy, and security of the System.
3 The Secretary shall minimize the collection and stor-
4 age of paper documents and maximize the use of
5 electronic records, including electronic signatures.

6 “(15) ANNUAL GAO STUDY AND REPORT.—

7 “(A) REQUIREMENT.—The Comptroller
8 General of the United States shall conduct an
9 annual study of the System.

10 “(B) PURPOSE.—The study shall evaluate
11 the accuracy, efficiency, integrity, and impact of
12 the System.

13 “(C) REPORT.—Not later than the date
14 that is 24 months after the date of the enact-
15 ment of this section, and annually thereafter,
16 the Comptroller General shall submit to Con-
17 gress a report containing the findings of the
18 study carried out under this paragraph. Each
19 such report shall include, at a minimum, the
20 following:

21 “(i) An assessment of System per-
22 formance with respect to the rate at which
23 individuals who are eligible for employment
24 in the United States are correctly approved
25 within each of the periods specified in

1 paragraph (8), including a separate assess-
2 ment of such rate for nationals and aliens.

3 “(ii) An assessment of the privacy and
4 security of the System and its effects on
5 identity fraud or the misuse of personal
6 data.

7 “(iii) An assessment of the effects of
8 the System on the employment of unau-
9 thorized aliens.

10 “(iv) An assessment of the effects of
11 the System, including the effects of ten-
12 tative confirmations on unfair immigra-
13 tion-related employment practices, and em-
14 ployment discrimination based on national
15 origin or citizenship status.

16 “(v) An assessment of whether the
17 Secretary and the Commissioner of Social
18 Security have adequate resources to carry
19 out the duties and responsibilities of this
20 section.

21 “(e) COMPLIANCE.—

22 “(1) COMPLAINTS AND INVESTIGATIONS.—The
23 Secretary shall establish procedures—

1 “(A) for individuals and entities to file
2 complaints regarding potential violations of sub-
3 section (a);

4 “(B) for the investigation of such com-
5 plaints that the Secretary determines are ap-
6 propriate to investigate; and

7 “(C) for the investigation of other viola-
8 tions of subsection (a) that the Secretary deter-
9 mines is appropriate.

10 “(2) AUTHORITY IN INVESTIGATIONS.—

11 “(A) IN GENERAL.—In conducting inves-
12 tigation and hearings under this subsection, of-
13 ficers and employees of the Department of
14 Homeland Security—

15 “(i) shall have reasonable access to
16 examine evidence regarding any employer
17 being investigated; and

18 “(ii) if designated by the Secretary,
19 may compel by subpoena the attendance of
20 witnesses and the production of evidence at
21 any designated place in an investigation or
22 case under this subsection.

23 “(B) FAILURE TO COOPERATE.—In case of
24 refusal to obey a subpoena lawfully issued
25 under subparagraph (A)(ii), the Secretary may

1 request that the Attorney General apply in an
2 appropriate district court of the United States
3 for an order requiring compliance with such
4 subpoena, and any failure to obey such order
5 may be punished by such court as contempt.

6 “(C) DEPARTMENT OF LABOR.—The Sec-
7 retary of Labor shall have the investigative au-
8 thority provided under section 11(a) of the Fair
9 Labor Standards Act of 1938 (29 U.S.C.
10 211(a)) to ensure compliance with the provi-
11 sions of this section.

12 “(3) COMPLIANCE PROCEDURES.—

13 “(A) PREPENALTY NOTICE.—If the Sec-
14 retary has reasonable cause to believe that
15 there has been a violation of a requirement of
16 this section and determines that further pro-
17 ceedings related to such violation are war-
18 ranted, the Secretary shall issue to the em-
19 ployer concerned a written notice of the Sec-
20 retary’s intention to issue a claim for a fine or
21 other penalty. Such notice shall—

22 “(i) describe the violation;

23 “(ii) specify the laws and regulations
24 allegedly violated;

1 “(iii) specify the amount of fines or
2 other penalties to be imposed;

3 “(iv) disclose the material facts which
4 establish the alleged violation; and

5 “(v) inform such employer that the
6 employer shall have a reasonable oppor-
7 tunity to make representations as to why a
8 claim for a monetary or other penalty
9 should not be imposed.

10 “(B) REMISSION OR MITIGATION OF PEN-
11 ALTIES.—

12 “(i) REVIEW BY SECRETARY.—If the
13 Secretary determines that such fine or
14 other penalty was incurred erroneously, or
15 determines the existence of such mitigating
16 circumstances as to justify the remission
17 or mitigation of such fine or penalty, the
18 Secretary may remit or mitigate such fine
19 or other penalty on the terms and condi-
20 tions as the Secretary determines are rea-
21 sonable and just, or order termination of
22 any proceedings related to the notice. Such
23 mitigating circumstances may include good
24 faith compliance and participation in, or

1 agreement to participate in, the System, if
2 not otherwise required.

3 “(ii) APPLICABILITY.—This subpara-
4 graph may not apply to an employer that
5 has or is engaged in a pattern or practice
6 of violations of paragraph (1), (2), or (3)
7 of subsection (a) or of any other require-
8 ments of this section.

9 “(C) PENALTY CLAIM.—After considering
10 evidence and representations offered by the em-
11 ployer, the Secretary shall determine whether
12 there was a violation and promptly issue a writ-
13 ten final determination setting forth the find-
14 ings of fact and conclusions of law on which the
15 determination is based and the appropriate pen-
16 alty.

17 “(4) CIVIL PENALTIES.—

18 “(A) HIRING OR CONTINUING TO EMPLOY
19 UNAUTHORIZED ALIENS.—Any employer that
20 violates any provision of paragraph (1), (2), or
21 (3) of subsection (a) shall pay civil penalties as
22 follows:

23 “(i) Pay a civil penalty of \$5,000 for
24 each unauthorized alien with respect to
25 each such violation.

1 “(ii) If the employer has previously
2 been fined 1 time under this subparagraph,
3 pay a civil penalty of \$10,000 for each un-
4 authorized alien with respect to each such
5 violation.

6 “(iii) If the employer has previously
7 been fined more than 1 time under this
8 subparagraph or has failed to comply with
9 a previously issued and final order related
10 to any such provision, pay a civil penalty
11 of \$25,000 for each unauthorized alien
12 with respect to each such violation.

13 “(iv) If the employer has previously
14 been fined more than 2 times under this
15 subparagraph or has failed to comply with
16 a previously issued and final order related
17 to any such provision, pay a civil penalty
18 of \$75,000 for each unauthorized alien
19 with respect to each such violation.

20 “(v) An employer who fails to comply
21 with a written final determination under
22 paragraph (3)(C) shall be fined \$75,000
23 for each violation, in addition to any fines
24 or other penalties imposed by such deter-
25 mination.

1 “(B) RECORDKEEPING OR VERIFICATION
2 PRACTICES.—Any employer that violates or fails
3 to comply with the recordkeeping requirements
4 of subsections (a), (c), and (d), shall pay a civil
5 penalty as follows:

6 “(i) Pay a civil penalty of \$1,000 for
7 each such violation.

8 “(ii) If the employer has previously
9 been fined 1 time under this subparagraph,
10 pay a civil penalty of \$2,000 for each such
11 violation.

12 “(iii) If the employer has previously
13 been fined more than 1 time under this
14 subparagraph, pay a civil penalty of
15 \$5,000 for each such violation.

16 “(iv) If the employer has previously
17 been fined more than 2 times under this
18 subparagraph, pay a civil penalty of
19 \$15,000 for each such violation.

20 “(v) An employer who fails to comply
21 with a written final determination under
22 paragraph (3) shall be fined \$15,000 for
23 each violation, in addition to any fines or
24 other penalties imposed by such determina-
25 tion.

1 “(C) OTHER PENALTIES.—Notwith-
2 standing subparagraphs (A) and (B), the Sec-
3 retary may impose additional penalties for vio-
4 lations, including violations of cease and desist
5 orders, specially designed compliance plans to
6 prevent further violations, suspended fines to
7 take effect in the event of a further violation,
8 and in appropriate cases, the criminal penalty
9 described in subsection (f).

10 “(5) JUDICIAL REVIEW.—An employer ad-
11 versely affected by a final determination may, within
12 30 days after the date the final determination is
13 issued, file a petition in any appropriate district
14 court of the United States. The filing of a petition
15 as provided in this paragraph shall stay the Sec-
16 retary’s determination until entry of judgment by
17 the court. The burden shall be on the employer to
18 show that the final determination was not supported
19 by substantial evidence. The Secretary is authorized
20 to require that the petitioner provide, prior to filing
21 for review, security for payment of fines and pen-
22 alties through bond or other guarantee of payment
23 acceptable to the Secretary.

24 “(6) ENFORCEMENT OF ORDERS.—If an em-
25 ployer fails to comply with a final determination

1 issued against that employer under this subsection,
2 and the final determination is not subject to review
3 as provided in paragraph (5), the Attorney General
4 may file suit to enforce compliance with the final de-
5 termination, not earlier than 31 days and not later
6 than 180 days after the date the final determination
7 is issued, in any appropriate district court of the
8 United States. In any such suit, the validity and ap-
9 propriateness of the final determination shall not be
10 subject to review.

11 “(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR
12 PATTERN OR PRACTICE VIOLATIONS.—

13 “(1) CRIMINAL PENALTY.—An employer that
14 engages in a pattern or practice of knowing viola-
15 tions of subsection (a)(1)(A) or (a)(2) shall be fined
16 not more than \$75,000 for each unauthorized alien
17 with respect to whom such a violation occurs, im-
18 prisoned for not more than 3 years for the entire
19 pattern or practice, or both.

20 “(2) ENJOINING OF PATTERN OR PRACTICE
21 VIOLATIONS.—If the Secretary or the Attorney Gen-
22 eral has reasonable cause to believe that an employer
23 is engaged in a pattern or practice of employment,
24 recruitment, or referral in violation of paragraph
25 (1)(A) or (2) of subsection (a), the Attorney General

1 may bring a civil action in the appropriate district
2 court of the United States requesting a permanent
3 or temporary injunction, restraining order, or other
4 order against the employer, as the Secretary deems
5 necessary.

6 “(g) ADJUSTMENT FOR INFLATION.—All penalties in
7 this section shall be increased every 4 years beginning
8 January 2011 to reflect the percentage increase in the
9 consumer price index for all urban consumers (all items;
10 U.S. city average) for the 48 month period ending with
11 September of the year preceding the year such adjustment
12 is made. Any adjustment under this subparagraph shall
13 be rounded to the nearest dollar.

14 “(h) PROHIBITION OF INDEMNITY BONDS.—

15 “(1) PROHIBITION.—It is unlawful for an em-
16 ployer, in the hiring, recruiting, or referral of an in-
17 dividual, to require the individual to post a bond or
18 security, to pay or agree to pay an amount, or other-
19 wise to provide a financial guarantee or indemnity,
20 against any potential liability arising under this sec-
21 tion relating to such hiring, recruiting, or referral of
22 the individual.

23 “(2) CIVIL PENALTY.—Any employer which is
24 determined, after notice and opportunity for mitiga-
25 tion of the monetary penalty under subsection (e), to

1 have violated paragraph (1) of this subsection shall
2 be subject to a civil penalty of \$10,000 for each vio-
3 lation and to an administrative order requiring the
4 return of any amounts received in violation of such
5 paragraph to the employee or, if the employee can-
6 not be located, to the general fund of the Treasury.

7 “(i) PROHIBITION ON AWARD OF GOVERNMENT CON-
8 TRACTS, GRANTS, AND AGREEMENTS.—

9 “(1) EMPLOYERS WITH NO CONTRACTS,
10 GRANTS, OR AGREEMENTS.—

11 “(A) IN GENERAL.—If an employer who
12 does not hold a Federal contract, grant, or co-
13 operative agreement is determined by the Sec-
14 retary to be a repeat violator of this section or
15 is convicted of a crime under this section, the
16 employer shall be subject to debarment from
17 the receipt of a Federal contract, grant, or co-
18 operative agreement for a period of not more
19 than 2 years in accordance with the procedures
20 and standards prescribed by the Federal Acqui-
21 sition Regulations. The Secretary or the Attor-
22 ney General shall advise the Administrator of
23 General Services of such a debarment, and the
24 Administrator of General Services shall list the
25 employer on the List of Parties Excluded from

1 Federal Procurement and Nonprocurement Pro-
2 grams for a period of the debarment.

3 “(B) WAIVER.—The Administrator of Gen-
4 eral Services, in consultation with the Secretary
5 and the Attorney General, may waive operation
6 of this subsection or may limit the duration or
7 scope of the debarment.

8 “(2) EMPLOYERS WITH CONTRACTS, GRANTS,
9 OR AGREEMENTS.—

10 “(A) IN GENERAL.—An employer who
11 holds a Federal contract, grant, or cooperative
12 agreement and is determined by the Secretary
13 to be a repeat violator of this section or is con-
14 victed of a crime under this section, shall be
15 subject to debarment from the receipt of new
16 Federal contracts, grants, or cooperative agree-
17 ments for a period of not more than 2 years in
18 accordance with the procedures and standards
19 prescribed by the Federal Acquisition Regula-
20 tions.

21 “(B) NOTICE TO AGENCIES.—Prior to de-
22 barring the employer under subparagraph (A),
23 the Secretary, in cooperation with the Adminis-
24 trator of General Services, shall advise all agen-
25 cies or departments holding a contract, grant,

1 or cooperative agreement with the employer of
2 the Government's intention to debar the em-
3 ployer from the receipt of new Federal con-
4 tracts, grants, or cooperative agreements for a
5 period of not more than 2 years.

6 “(C) WAIVER.—After consideration of the
7 views of all agencies or departments that hold
8 a contract, grant, or cooperative agreement
9 with the employer, the Secretary may, in lieu of
10 debarring the employer from the receipt of new
11 Federal contracts, grants, or cooperative agree-
12 ments for a period of nor more than 2 years,
13 waive operation of this subsection, limit the du-
14 ration or scope of the debarment, or may refer
15 to an appropriate lead agency the decision of
16 whether to debar the employer, for what dura-
17 tion, and under what scope in accordance with
18 the procedures and standards prescribed by the
19 Federal Acquisition Regulation. However, any
20 proposed debarment predicated on an adminis-
21 trative determination of liability for civil penalty
22 by the Secretary or the Attorney General shall
23 not be reviewable in any debarment proceeding.

24 “(3) SUSPENSION.—Indictments for violations
25 of this section or adequate evidence of actions that

1 could form the basis for debarment under this sub-
2 section shall be considered a cause for suspension
3 under the procedures and standards for suspension
4 prescribed by the Federal Acquisition Regulation.

5 “(4) DETERMINATION OF REPEAT VIOLA-
6 TORS.—Inadvertent violations of recordkeeping or
7 verification requirements, in the absence of any
8 other violations of this section, shall not be a basis
9 for determining that an employer is a repeat violator
10 for purposes of this subsection.

11 “(j) MISCELLANEOUS PROVISIONS.—

12 “(1) DOCUMENTATION.—In providing docu-
13 mentation or endorsement of authorization of aliens
14 eligible to be employed in the United States, the
15 Secretary shall provide that any limitations with re-
16 spect to the period or type of employment or em-
17 ployer shall be conspicuously stated on the docu-
18 mentation or endorsement (other than aliens law-
19 fully admitted for permanent residence).

20 “(2) PREEMPTION.—The provisions of this sec-
21 tion preempt any State or local law—

22 “(A) imposing civil or criminal sanctions
23 upon those who hire, or recruit or refer for a
24 fee, unauthorized aliens for employment; or

1 “(B) requiring the use of the System for
2 any unauthorized purpose, or any authorized
3 purpose prior to the time such use is required
4 or permitted by Federal law.

5 “(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as
6 otherwise specified, civil penalties collected under this sec-
7 tion shall be deposited by the Secretary into the general
8 fund of the Treasury.

9 “(l) DEFINITIONS.—In this section:

10 “(1) SECRETARY.—Except as otherwise pro-
11 vided, the term ‘Secretary’ means the Secretary of
12 Homeland Security.

13 “(2) UNAUTHORIZED ALIEN.—The term ‘unau-
14 thorized alien’ means, with respect to the employ-
15 ment of an alien at a particular time, that the alien
16 is not at that time either—

17 “(A) an alien lawfully admitted for perma-
18 nent residence; or

19 “(B) authorized to be so employed by this
20 Act or by the Secretary under any other provi-
21 sion of law.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) AMENDMENTS.—

24 (A) REPEAL OF BASIC PILOT.—Sections
25 401, 402, 403, 404, and 405 of the Illegal Im-

1 migration Reform and Immigrant Responsibility
2 Act of 1996 (division C of Public Law 104–
3 208; 8 U.S.C. 1324a note) are repealed.

4 (B) REPEAL OF REPORTING REQUIRE-
5 MENTS.—

6 (i) REPORT ON EARNINGS OF ALIENS
7 NOT AUTHORIZED TO WORK.—Subsection
8 (c) of section 290 of the Immigration and
9 Nationality Act (8 U.S.C. 1360) is re-
10 pealed.

11 (ii) REPORT ON FRAUDULENT USE OF
12 SOCIAL SECURITY ACCOUNT NUMBERS.—
13 Subsection (b) of section 414 of the Illegal
14 Immigration Reform and Immigrant Re-
15 sponsibility Act of 1996 (division C of
16 Public Law 104–208; 8 U.S.C. 1360 note)
17 is repealed.

18 (2) CONSTRUCTION.—Nothing in this sub-
19 section or in subsection (d) of section 274A, as
20 amended by subsection (a), may be construed to
21 limit the authority of the Secretary to allow or con-
22 tinue to allow the participation of employers who
23 participated in the basic pilot program under sec-
24 tions 401, 402, 403, 404, and 405 of the Illegal Im-
25 migration Reform and Immigrant Responsibility Act

1 of 1996 (division C of Public Law 104–208; 8
2 U.S.C. 1324a note) in the Electronic Employment
3 Verification System established pursuant to such
4 subsection (d).

5 (c) TECHNICAL AMENDMENTS.—

6 (1) DEFINITION OF UNAUTHORIZED ALIEN.—
7 Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(e)(8)
8 (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C.
9 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C.
10 1324b(a)(1)) are amended by striking “274A(h)(3)”
11 and inserting “274A”.

12 (2) DOCUMENT REQUIREMENTS.—Section 274B
13 of the Immigration and Nationality Act (8 U.S.C.
14 1324b) is amended—

15 (A) in subsections (a)(6) and (g)(2)(B), by
16 striking “274A(b)” and inserting “274A(c) and
17 (d)”; and

18 (B) in subsection (g)(2)(B)(ii), by striking
19 “274A(b)(5)” and inserting “274A(c)”.

20 (d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

21 (1) EEVS DETERMINATIONS.—Section
22 205(c)(2) of the Social Security Act (42 U.S.C.
23 405(c)(2)) is amended by adding at the end the fol-
24 lowing:

1 “(I)(i) The Commissioner of Social Security shall,
2 subject to the provisions of section __01(f)(2) of the Se-
3 cure Borders, Economic Opportunity and Immigration Re-
4 form Act of 2007, establish a reliable, secure method to
5 provide through the Electronic Employment Verification
6 System established pursuant to subsection (d) of section
7 274A of the Immigration and Nationality Act (referred
8 to in this subparagraph as the ‘System’), within the time
9 periods required by paragraph (8) of such subsection—

10 “(I) a determination of whether the name, date
11 of birth, and social security account number of an
12 individual provided in an inquiry made to the Sys-
13 tem by an employer is consistent with such informa-
14 tion maintained by the Commissioner;

15 “(II) a determination of the citizenship status
16 associated with such name and social security ac-
17 count number, according to the records maintained
18 by the Commissioner;

19 “(III) a determination of whether the name and
20 number belongs to an individual who is deceased, ac-
21 cording to the records maintained by the Commis-
22 sioner;

23 “(IV) a determination of whether the name and
24 number is blocked in accordance with clause (ii); and

1 “(V) a confirmation notice or a nonconfirma-
2 tion notice described in such paragraph (8), in a
3 manner that ensures that other information main-
4 tained by the Commissioner is not disclosed or re-
5 leased to employers through the System.

6 “(ii) The Commissioner of Social Security shall pre-
7 vent the fraudulent or other misuse of a social security
8 account number by establishing procedures under which
9 an individual who has been assigned a social security ac-
10 count number may block the use of such number under
11 the System and remove such block.

12 “(J) In assigning social security account numbers to
13 aliens who are authorized to work in the United States
14 under section 218A of the Immigration and Nationality
15 Act, the Commissioner of Social Security shall—

16 “(i) to the maximum extent practicable, assign
17 such numbers by employing the enumeration proce-
18 dure administered jointly by the Commissioner, the
19 Secretary of State, and the Secretary of Homeland
20 Security;

21 “(ii) in all cases, record, verify, and maintain
22 an electronic record of the alien identification or au-
23 thorization number issued by the Secretary and uti-
24 lized by the Commissioner in assigning such social
25 security account number; and

1 “(iii) upon the issuance of a social security ac-
2 count number, transmit such number to the Sec-
3 retary of Homeland Security for inclusion in such
4 alien’s record maintained by the Secretary.”.

5 (2) AGREEMENT.—Section 205(c)(2)(C)(i) of
6 the Social Security Act (42 U.S.C. 405(c)(2)(C)(i))
7 is amended by adding at the end the following: “Any
8 State that utilizes a social security account number
9 for such purpose shall enter into an agreement with
10 the Commissioner to allow the Commissioner to
11 verify the name, date of birth, and the identity num-
12 ber issued by the official the State responsible for
13 issuing drivers’ licenses and identity cards. Such
14 agreement shall be under the same terms and condi-
15 tions as agreements entered into by the Commis-
16 sioner under paragraph 205(r)(8).”.

17 (3) DISCLOSURE OF DEATH INFORMATION.—
18 Section 205(r) of the Social Security Act (42 U.S.C.
19 405(r)) is amended by adding at the end the fol-
20 lowing:

21 “(9) Notwithstanding this section or any agree-
22 ment entered into thereunder, the Commissioner of
23 Social Security is authorized to disclose death infor-
24 mation to the Secretary of Homeland Security to the
25 extent necessary to carry out the responsibilities re-

1 quired under subsection (c)(2) and section
2 6103(l)(21) of the Internal Revenue Code of 1986.”.

3 (e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY
4 INFORMATION.—

5 (1) IN GENERAL.—Section 6103(l) of the Inter-
6 nal Revenue Code of 1986 is amended by adding at
7 the end the following:

8 “(21) DISCLOSURE OF CERTAIN TAXPAYER
9 IDENTITY INFORMATION BY THE SOCIAL SECURITY
10 ADMINISTRATION TO THE DEPARTMENT OF HOME-
11 LAND SECURITY.—

12 “(A) IN GENERAL.—Upon written request
13 by the Secretary of Homeland Security, the
14 Commissioner of Social Security or the Sec-
15 retary shall disclose directly to officers, employ-
16 ees, and contractors of the Department of
17 Homeland Security the following information:

18 “(i) DISCLOSURE OF EMPLOYER NO
19 MATCH NOTICES.—The taxpayer identity
20 of each person who has filed an informa-
21 tion return required by reason of section
22 6051 or section 6041(a) for tax year 2005
23 and subsequent tax years that end before
24 the date that is specified in subparagraph
25 (F) which contains—

1 “(I) 1 (or any greater number
2 the Secretary shall request) name and
3 taxpayer identifying number of any
4 employee (within the meaning of sec-
5 tion 6051) or any recipient (within
6 the meaning of section 6041(a)) that
7 could not be matched to the records
8 maintained by the Commissioner of
9 Social Security, or

10 “(II) 2 (or any greater number
11 the Secretary shall request) names of
12 employees (within the meaning of
13 such section) or recipients (within the
14 meaning of section 6041(a)) with the
15 same taxpayer identifying number,
16 and the taxpayer identity of each such em-
17 ployee or recipient.

18 “(ii) DISCLOSURE OF INFORMATION
19 REGARDING USE OF DUPLICATE TAXPAYER
20 IDENTIFYING INFORMATION OF EMPLOY-
21 EES.—The taxpayer identity of each per-
22 son who has filed an information return re-
23 quired by reason of section 6051 or section
24 6041(a) for tax year 2005 and subsequent
25 tax years that end before the date that is

1 specified in subparagraph (F) which con-
2 tains the taxpayer identifying number (as-
3 signed under section 6109) of an employee
4 (within the meaning of section 6051) or a
5 recipient (within the meaning of section
6 6041(a))—

7 “(I) who is under the age of 14
8 (or any lesser age the Secretary shall
9 request), according to the records
10 maintained by the Commissioner of
11 Social Security,

12 “(II) whose date of death, ac-
13 cording to the records so maintained,
14 occurred in a calendar year preceding
15 the calendar year for which the infor-
16 mation return was filed,

17 “(III) whose taxpayer identifying
18 number is contained in more than one
19 (or any greater number the Secretary
20 shall request) information return filed
21 in such calendar year,

22 “(IV) who is not authorized to
23 work in the United States, according
24 to the records so maintained, or

1 “(V) who is not a national of the
2 United States, according to the
3 records so maintained,
4 and the taxpayer identity of each such em-
5 ployee or recipient.

6 “(iii) DISCLOSURE OF INFORMATION
7 REGARDING NONPARTICIPATING EMPLOY-
8 ERS.—The taxpayer identity of each per-
9 son who has filed an information return re-
10 quired by reason of section 6051 or section
11 6041(a) which the Commissioner of Social
12 Security or the Secretary, as the case may
13 be, has reason to believe, based on a com-
14 parison with information submitted by the
15 Secretary of Homeland Security, contains
16 evidence of such person’s failure to register
17 and participate in the Electronic Employ-
18 ment Verification System authorized under
19 section 274A(d) of the Immigration and
20 Nationality Act (hereafter in this para-
21 graph referred to as the ‘System’).

22 “(iv) DISCLOSURE OF INFORMATION
23 REGARDING NEW EMPLOYEES OF NON-
24 PARTICIPATING EMPLOYERS.—The tax-
25 payer identity of all employees (within the

1 meaning of section 6051) hired and recipi-
2 ents (within the meaning of section
3 6041(a)) retained after the date a person
4 identified in clause (iii) is required to par-
5 ticipate in the System under section
6 274A(d)(2) or section 274A(d)(3)(B) of
7 the Immigration and Nationality Act.

8 “(v) DISCLOSURE OF INFORMATION
9 REGARDING EMPLOYEES OF CERTAIN DES-
10 IGNATED EMPLOYERS.—The taxpayer iden-
11 tity of all employees (within the meaning
12 of section 6051) and recipients (within the
13 meaning of section 6041(a)) of each person
14 who is required to participate in the Sys-
15 tem under section 274A(d)(3)(B) of the
16 Immigration and Nationality Act.

17 “(vi) DISCLOSURE OF NEW HIRE TAX-
18 PAYER IDENTITY INFORMATION.—The tax-
19 payer identity of each person participating
20 in the System and the taxpayer identity of
21 all employees (within the meaning of sec-
22 tion 6051) of such person hired and all re-
23 cipients (within the meaning of section
24 6041(a)) of such person retained during
25 the period beginning with the later of—

1 “(I) the date such person begins
2 to participate in the System, or

3 “(II) the date of the request im-
4 mediately preceding the most recent
5 request under this clause,

6 ending with the date of the most recent re-
7 quest under this clause.

8 “(B) RESTRICTION ON DISCLOSURE.—The
9 taxpayer identities disclosed under subpara-
10 graph (A) may be used by officers, employees,
11 and contractors of the Department of Home-
12 land Security only for purposes of, and to the
13 extent necessary in—

14 “(i) preventing identity fraud;

15 “(ii) preventing unauthorized aliens
16 from obtaining employment in the United
17 States;

18 “(iii) establishing and enforcing em-
19 ployer participation in the System;

20 “(iv) carrying out, including through
21 civil administrative and civil judicial pro-
22 ceedings, of sections 212, 217, 235, 237,
23 238, 274A, 274B, and 274C of the Immi-
24 gration and Nationality Act; and

1 “(v) the civil operation of the Alien
2 Terrorist Removal Court.

3 “(C) REIMBURSEMENT.—The Commis-
4 sioner of Social Security and the Secretary shall
5 prescribe a reasonable fee schedule based on the
6 additional costs directly incurred for furnishing
7 taxpayer identities under this paragraph and
8 collect such fees in advance from the Secretary
9 of Homeland Security.

10 “(D) INFORMATION RETURNS UNDER SEC-
11 TION 6041.—For purposes of this paragraph,
12 any reference to information returns required
13 by reason of section 6041(a) shall only be a ref-
14 erence to such information returns relating to
15 payments for labor.

16 “(E) FORM OF DISCLOSURE.—The tax-
17 payer identities to be disclosed under paragraph
18 (A) shall be provided in a form agreed upon by
19 the Commissioner of Social Security, the Sec-
20 retary, and the Secretary of Homeland Secu-
21 rity.

22 “(F) TERMINATION.—This paragraph shall
23 not apply to any request made after the date
24 which is 5 years after the date of the enactment
25 of this paragraph.”.

1 (2) COMPLIANCE BY DHS CONTRACTORS WITH
2 CONFIDENTIALITY SAFEGUARDS.—Section 6103(p)
3 of such Code is amended by adding at the end the
4 following:

5 “(9) DISCLOSURE TO DHS CONTRACTORS.—
6 Notwithstanding any other provision of this section,
7 no return or return information shall be disclosed to
8 any contractor of the Department of Homeland Se-
9 curity unless such Department, to the satisfaction of
10 the Secretary—

11 “(A) has requirements in effect which re-
12 quire each such contractor which would have
13 access to returns or return information to pro-
14 vide safeguards (within the meaning of para-
15 graph (4)) to protect the confidentiality of such
16 returns or return information,

17 “(B) agrees to conduct an on-site review
18 every 3 years (midpoint review in the case of
19 contracts or agreements of less than 3 years in
20 duration) of each contractor to determine com-
21 pliance with such requirements,

22 “(C) submits the findings of the most re-
23 cent review conducted under subparagraph (B)
24 to the Secretary as part of the report required
25 by paragraph (4)(E), and

1 “(D) certifies to the Secretary, for the
2 most recent annual period, that such contractor
3 is in compliance with all such requirements, by
4 submitting the name and address of each con-
5 tractor, a description of the contract or agree-
6 ment with such contractor, and the duration of
7 such contract or agreement.”.

8 (3) CONFORMING AMENDMENTS.—

9 (A) Section 6103(a)(3) of such Code is
10 amended by striking “or (20)” and inserting
11 “(20), or (21)”.

12 (B) Section 6103(p)(3)(A) of such Code is
13 amended by adding at the end the following
14 new sentence: “The Commissioner of Social Se-
15 curity shall provide to the Secretary such infor-
16 mation as the Secretary may require in carrying
17 out this paragraph with respect to return infor-
18 mation inspected or disclosed under the author-
19 ity of subsection (l)(21).”.

20 (C) Section 6103(p)(4) of such Code is
21 amended—

22 (i) by striking “or (17)” both places it
23 appears and inserting “(17), or (21)”; and

24 (ii) by striking “or (20)” each place it
25 appears and inserting “(20), or (21)”.

1 (D) Section 6103(p)(8)(B) of such Code is
2 amended by inserting “or paragraph (9)” after
3 “subparagraph (A)”.

4 (E) Section 7213(a)(2) of such Code is
5 amended by striking “or (20)” and inserting
6 “(20), or (21)”.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There are authorized to be
9 appropriated to the Secretary such sums as are nec-
10 essary to carry out the amendments made by this
11 section.

12 (2) LIMITATION ON VERIFICATION RESPON-
13 SIBILITIES OF COMMISSIONER OF SOCIAL SECUR-
14 RITY.—The Commissioner of Social Security is au-
15 thorized to perform activities with respect to car-
16 rying out the Commissioner’s responsibilities in this
17 title or the amendments made by this title, but only
18 to the extent funds are appropriated, in advance, to
19 cover the Commissioner’s full costs in carrying out
20 such responsibilities. In no case shall funds from the
21 Federal Old-Age and Survivors Insurance Trust
22 Fund or the Federal Disability Insurance Trust
23 Fund be used to carry out such responsibilities.

24 (g) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 subsections (a), (b), (c), and (d) shall take effect on
3 the date of the enactment of this Act.

4 (2) SUBSECTION (e).—

5 (A) IN GENERAL.—The amendments made
6 by subsection (e) shall apply to disclosures
7 made after the date of the enactment of this
8 Act.

9 (B) CERTIFICATIONS.—The first certifi-
10 cation under section 6103(p)(9)(D) of the In-
11 ternal Revenue Code of 1986, as added by sub-
12 section (e)(2), shall be made with respect to cal-
13 endar year 2008.

14 **SEC. 03. ADDITIONAL WORKSITE ENFORCEMENT AND**
15 **FRAUD DETECTION AGENTS.**

16 (a) INCREASE IN NUMBER OF PERSONNEL.—The
17 Secretary shall, subject to the availability of appropria-
18 tions for such purpose, annually increase, by not less than
19 2,200, the number of United States Immigration and Cus-
20 toms Enforcement personnel during the 5-year period be-
21 ginning on the date of the enactment of this Act.

22 (b) USE OF PERSONNEL.—The Secretary shall en-
23 sure that not less than 25 percent of all the hours ex-
24 pended by United States Immigration and Customs En-
25 forcement personnel is used to enforce compliance with

1 sections 274A and 274C of the Immigration and Nation-
2 ality Act (8 U.S.C. 1324a and 1324c).

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary for
5 each of the fiscal years 2008 through 2012 such sums as
6 may be necessary to carry out this section.

7 **SEC. 04. CLARIFICATION OF INELIGIBILITY FOR MIS-**
8 **REPRESENTATION.**

9 Section 212(a)(6)(C)(ii)(I) of the Immigration and
10 Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amend-
11 ed by striking “citizen” and inserting “national”.

12 **SEC. 05. ANTIDISCRIMINATION PROTECTIONS.**

13 (a) APPLICATION OF PROHIBITION OF DISCRIMINA-
14 TION TO VERIFICATION SYSTEM.—Section 274B(a) of the
15 Immigration and Nationality Act (8 U.S.C. 1324b(a)) is
16 amended—

17 (1) in paragraph (1)—

18 (A) in the matter preceding subparagraph
19 (A), by inserting “, the verification of the indi-
20 vidual’s work authorization through the Elec-
21 tronic Employment Verification System de-
22 scribed in section 274A(d),” after “the indi-
23 vidual for employment”; and

1 (B) in subparagraph (B), by striking “in
2 the case of a protected individual (as defined in
3 paragraph (3)),”; and

4 (2) by striking paragraph (3) and inserting the
5 following:

6 “(3) ANTIDISCRIMINATION REQUIREMENTS OF
7 THE ELECTRONIC EMPLOYMENT VERIFICATION SYS-
8 TEM.—

9 “(A) IN GENERAL.—It is an unfair immi-
10 gration-related employment practice for a per-
11 son or other entity, in the course of the elec-
12 tronic verification process described in section
13 274A(d)—

14 “(i) to terminate or undertake any ad-
15 verse employment action due to a tentative
16 nonconfirmation;

17 “(ii) to use the verification system for
18 screening of an applicant prior to an offer
19 of employment;

20 “(iii) except as described in section
21 274A(d)(3)(B), to use the verification sys-
22 tem for a current employee after the first
23 day of employment, unless a waiver is pro-
24 vided by the Secretary of Homeland Secu-
25 rity for good cause, or for the

1 reverification of an employee after the em-
2 ployee has satisfied the process described
3 in section 274A(d); or

4 “(iv) to require an individual to make
5 an inquiry under the self-verification proce-
6 dures established in section
7 274A(d)(8)(E)(iii).

8 “(B) PREEMPLOYMENT SCREENING AND
9 BACKGROUND CHECK.—Nothing in subpara-
10 graph (A) shall be construed to preclude a pre-
11 employment screening or background check that
12 is required or permitted under any other provi-
13 sion of law.”.

14 (b) INCREASE IN CIVIL MONEY PENALTIES.—Section
15 274B(g)(2) of the Immigration and Nationality Act (8
16 U.S.C. 1324b(g)(2)) is amended in subparagraph
17 (B)(iv)—

18 (1) in subclause (I), by striking “\$250 and not
19 more than \$2,000” and inserting “\$1,000 and not
20 more than \$4,000”;

21 (2) in subclause (II), by striking “\$2,000 and
22 not more than \$5,000” and inserting “\$4,000 and
23 not more than \$10,000”;

1 (3) in subclause (III), by striking “\$3,000 and
2 not more than \$10,000” and inserting “\$6,000 and
3 not more than \$20,000”; and

4 (4) in subclause (IV), by striking “\$100 and
5 not more than \$1,000” and inserting “\$500 and not
6 more than \$5,000”.

7 (c) INCREASED FUNDING OF INFORMATION CAM-
8 PAIGN.—Section 274B(1)(3) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1324b(1)(3)) is amended by insert-
10 ing “and an additional \$40,000,000 for each of fiscal
11 years 2008 through 2010” before the period at the end.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act and shall apply to violations occurring on or
15 after such date.

1 **SEC. ____ . DISTRICT JUDGES FOR THE DISTRICT COURTS IN**
2 **BORDER STATES.**

3 (a) IN GENERAL.—The President shall appoint, by
4 and with the advice and consent of the Senate—

5 (1) 4 additional district judges for the district
6 of Arizona;

7 (2) 4 additional district judges for the central
8 district of California;

9 (3) 4 additional district judges for the eastern
10 of California;

11 (4) 2 additional district judges for the northern
12 district of California;

13 (5) 4 additional district judges for the middle
14 district of Florida;

15 (6) 2 additional district judges for the southern
16 district of Florida;

17 (7) 1 additional district judge for the district of
18 Minnesota;

19 (8) 1 additional district judge for the district of
20 New Mexico;

21 (9) 3 additional district judges for the eastern
22 district of New York;

23 (10) 1 additional district judge for the western
24 district of New York;

25 (11) 1 additional district judge for the eastern
26 district of Texas;

1 (12) 2 additional district judges for the south-
2 ern district of Texas;

3 (13) 1 additional district judge for the western
4 district of Texas; and

5 (14) 1 additional district judge for the western
6 district of Washington.

7 (b) TEMPORARY JUDGESHIPS.—

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

10 (A) 1 additional district judge for the dis-
11 trict of Arizona;

12 (B) 1 additional district judge for the cen-
13 tral district of California;

14 (C) 1 additional district judge for the
15 northern district of California;

16 (D) 1 additional district judge for the mid-
17 dle district of Florida;

18 (E) 1 additional district judge for the
19 southern district of Florida;

20 (F) 1 additional district judge for the dis-
21 trict of Idaho; and

22 (G) 1 additional district judge for the dis-
23 trict of New Mexico.

24 (2) VACANCIES.—For each of the judicial dis-
25 tricts named in this subsection, the first vacancy

1 arising on the district court 10 years or more after
 2 a judge is first confirmed to fill the temporary dis-
 3 trict judgeship created in that district by this sub-
 4 section shall not be filled.

5 (c) EXISTING JUDGESHIPS.—The existing judgeships
 6 for the district of Arizona and the district of New Mexico
 7 authorized by section 312(c) of the 21st Century Depart-
 8 ment of Justice Appropriations Authorization Act (Public
 9 Law 107–273, 116 Stat. 1758), as of the effective date
 10 of this Act, shall be authorized under section 133 of title
 11 28, United States Code, and the incumbents in those of-
 12 fices shall hold the office under section 133 of title 28,
 13 United States Code, as amended by this Act.

14 (d) TABLES.—In order that the table contained in
 15 section 133 of title 28, United States Code, will, with re-
 16 spect to each judicial district, reflect the changes in the
 17 total number of permanent district judgeships authorized
 18 as a result of subsections (a) and (c), such table is amend-
 19 ed 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.”.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to provide appropriate space and facilities for
4 the judicial positions created under this section.

5 (f) FUNDING.—Notwithstanding any other provision
6 of law, the Attorney General shall transfer, for each of
7 the fiscal years 2008 through 2017, \$8,000,000 from the
8 Department of Justice Assets Forfeiture Fund to the gen-
9 eral fund of the Treasury to carry out this section.

1 **SEC. ____ . TRANSMITTAL AND APPROVAL OF TOTALIZATION**
2 **AGREEMENTS.**

3 (a) IN GENERAL.—Section 233(e) of the Social Secu-
4 rity Act (42 U.S.C. 433(e)) is amended to read as follows:

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

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

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

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

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

1 “(i) An estimate by the Chief Actuary of the
2 Social Security Administration of the effect of the
3 agreement, in the short term and in the long term,
4 on the receipts and disbursements under the social
5 security system established by this title.

6 “(ii) A statement of any administrative action
7 proposed to implement the agreement and how such
8 action will change or affect existing law.

9 “(iii) A statement describing whether and how
10 the agreement changes provisions of an agreement
11 previously negotiated.

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

15 “(v) An estimate by the Chief Actuary of the
16 Social Security Administration, working in consulta-
17 tion with the Comptroller General of the United
18 States, of the number of individuals who may be-
19 come eligible for any benefits under this title or who
20 may otherwise be affected by the agreement.

21 “(vi) An assessment of the integrity of the re-
22 tirement data and records (including birth, death,
23 and marriage records) of the other country that is
24 the subject of the agreement.

1 “(vii) An assessment of the ability of such
2 country to track and monitor recipients of benefits
3 under such agreement.

4 “(B) If any separate agreement or other under-
5 standing with another country (whether oral or in writing)
6 relating to an agreement to establish a totalization ar-
7 rangement under this section is not disclosed to Congress
8 in the transmittal to Congress under this paragraph of
9 the agreement to establish a totalization arrangement,
10 then such separate agreement or understanding shall not
11 be considered to be part of the agreement approved by
12 Congress under this section and shall have no force and
13 effect under United States law.

14 “(3) For purposes of this subsection, the term ‘ap-
15 proval resolution’ means a joint resolution, the matter
16 after the resolving clause of which is as follows: ‘That the
17 proposed agreement entered into pursuant to section 233
18 of the Social Security Act between the United States and
19 _____ establishing totalization arrangements
20 between the social security system established by title II
21 of such Act and the social security system of
22 _____, transmitted to Congress by the Presi-
23 dent on _____, is hereby approved.’, the first two
24 blanks therein being filled with the name of the country
25 with which the United States entered into the agreement,

1 and the third blank therein being filled with the date of
2 the transmittal of the agreement to Congress.

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

11 “(5) On the day on which a document setting forth
12 the agreement is transmitted to the House of Representa-
13 tives and the Senate pursuant to paragraph (1), an ap-
14 proval resolution with respect to such agreement shall be
15 introduced (by request) in the House by the majority lead-
16 er of the House, for himself or herself and the minority
17 leader of the House, or by Members of the House des-
18 igned by the majority leader and minority leader of the
19 House; and shall be introduced (by request) in the Senate
20 by the majority leader of the Senate, for himself or herself
21 and the minority leader of the Senate, or by Members of
22 the Senate designated by the majority leader and minority
23 leader of the Senate. If either House is not in session on
24 the day on which such an agreement is transmitted, the
25 approval resolution with respect to such agreement shall

1 be introduced in that House, as provided in the preceding
2 sentence, on the first day thereafter on which that House
3 is in session. The resolution introduced in the House of
4 Representatives shall be referred to the Committee on
5 Ways and Means and the resolution introduced in the Sen-
6 ate shall be referred to the Committee on Finance.”.

7 (b) ADDITIONAL REPORTS AND EVALUATIONS.—Sec-
8 tion 233 of the Social Security Act (42 U.S.C. 433) is
9 amended by adding at the end the following new sub-
10 sections:

11 “(f) BIENNIAL SSA REPORT ON IMPACT OF TOTAL-
12 IZATION AGREEMENTS.—

13 “(1) REPORT.—For any totalization agreement
14 transmitted to Congress on or after January 1,
15 2007, the Commissioner of Social Security shall sub-
16 mit a report to Congress and the Comptroller Gen-
17 eral that—

18 “(A) compares the estimates contained in
19 the report submitted to Congress under clauses
20 (i) and (v) of subsection (e)(2)(A) with respect
21 to that agreement with the actual number of in-
22 dividuals affected by the agreement and the ac-
23 tual effect of the agreement on social security
24 system receipts and disbursements; and

1 “(2) REPORT.—Not later than 1 year after the
2 date of submission of an initial report regarding a
3 totalization agreement under subsection (f), the
4 Comptroller General shall submit to Congress a re-
5 port setting forth the results of the evaluation con-
6 ducted under paragraph (1).

7 “(3) DATA COLLECTION.—The Commissioner of
8 Social Security shall collect and maintain the data
9 necessary for the Comptroller General of the United
10 States to conduct the evaluation required by para-
11 graph (1).”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to agreements estab-
14 lishing totalization arrangements entered into under sec-
15 tion 233 of the Social Security Act that are transmitted
16 to Congress on or after January 1, 2007.

1 **SEC. ____ . IMMIGRATION ENFORCEMENT IMPROVEMENTS.**

2 (a) **VISA EXIT TRACKING SYSTEM.**—In addition to
3 the border security and other measures described in para-
4 graphs (1) through (6) of section 1(a), the certification
5 required under section 1(a) shall include a statement that
6 the Secretary of Homeland Security has established and
7 deployed a system capable of recording the departure of
8 aliens admitted under section 101(a)(15)(Y) of the Immi-
9 gration and Nationality Act at designated ports of entry
10 or designated United States consulates abroad.

11 (b) **PROMPT REMOVAL PROCEEDINGS.**—Subject to
12 the availability of appropriations, the Secretary of Home-
13 land Security shall promptly identify, investigate, and ini-
14 tiate removal proceedings against every alien admitted
15 into the United States under subparagraph (B) (admitted
16 under the terms and conditions of section 214(s)), (H)(ii)
17 (as amended by title IV), or (Y) of section 101(a)(15) of
18 the Immigration and Nationality Act, and who exceeds the
19 alien’s period of authorized admission or otherwise violates
20 any terms of the alien’s nonimmigrant status. In con-
21 ducting such removal proceedings, the Secretary shall give
22 priority to aliens who may pose a threat to the national
23 security, and those convicted of criminal offenses.

24 (c) **REPORT TO GOVERNORS.**—

25 (1) **IN GENERAL.**—Not later than 90 days be-
26 fore the Secretary of Homeland Security submits a

1 written certification under section 1(a), the Sec-
2 retary shall submit a report to the governors of the
3 States that share a land border with Mexico that—

4 (A) describes the progress made in estab-
5 lishing, funding, and implementing the border
6 security and other measures described in sub-
7 section (a) and section 1(a); and

8 (B) indicates the date on which the Sec-
9 retary intends to submit a written certification
10 under subsection (a) and section 1(a).

11 (2) GOVERNOR'S RESPONSE.—Not later than
12 60 days after receiving a report from the Secretary
13 under paragraph (1), a governor may submit a re-
14 port to Congress that—

15 (A) analyzes the accuracy of the informa-
16 tion received by the Secretary;

17 (B) indicates whether the governor agrees
18 with the Secretary that the border security and
19 other measures described in subsection (a) and
20 section 1(a) will be established, funded, and
21 operational before the Secretary's certification
22 is submitted; and

23 (C) makes recommendations regarding new
24 border enforcement policies, strategies, and ad-
25 ditional programs needed to secure the border.

1 (3) CONSULTATION.—The Secretary shall con-
2 sult with any governor who submits a report under
3 subsection (2) before submitting written certification
4 under section 1(a).

5 (d) SMUGGLING INVESTIGATORS AND ICE PER-
6 SONNEL.—

7 (1) INCREASE IN FULL-TIME UNITED STATES
8 IMMIGRATION AND CUSTOMS ENFORCEMENT PER-
9 SONNEL.—In each of the fiscal years 2008 through
10 2012, the Secretary of Homeland Security shall,
11 subject to the availability of appropriations, increase
12 by not less than 1,250 the number of positions for
13 full-time active duty forensic auditors, intelligence
14 research specialists, agents, officers, and investiga-
15 tors in United States Immigration and Customs En-
16 forcement—

17 (A) to carry out the removal of aliens who
18 are not admissible to, or are subject to removal
19 from, the United States;

20 (B) to investigate immigration fraud; and

21 (C) to enforce workplace violations.

22 (2) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated such sums
24 as may be necessary to carry out this subsection.

1 (3) CONFORMING AMENDMENT.—Section 5203
2 of the Intelligence Reform and Terrorism Protection
3 Act of 2004 (Public Law 108–458; 118 Stat. 3734)
4 is repealed.

5 (e) COLLECTION OF BIOMETRIC DATA FROM ALIENS
6 ENTERING AND DEPARTING THE UNITED STATES.—Sec-
7 tion 215 of the Immigration and Nationality Act, as
8 amended by section 111(a), is further amended—

9 (1) by redesignating subsections (d), (e), (f),
10 and (g) as subsections (e), (f), (g), and (h), respec-
11 tively; and

12 (2) by striking subsection (c), as added by sec-
13 tion 111(a)(3), and inserting the following:

14 “(c) COLLECTION OF BIOMETRIC DATA FROM
15 ALIENS ENTERING AND DEPARTING THE UNITED
16 STATES.—The Secretary of Homeland Security shall re-
17 quire an alien entering and departing the United States
18 to provide biometric data and other information relating
19 to the alien’s immigration status.

20 “(d) COLLECTION OF DEPARTURE DATA FROM CER-
21 TAIN NONIMMIGRANTS.—

22 “(1) IN GENERAL.—The Secretary of Homeland
23 Security shall require an alien who was admitted to
24 the United States under subparagraph (B) (under
25 the terms and conditions of section 214(s)), (H)(ii),

1 or (Y) of section 101(a)(15) to record the alien’s de-
2 parture at a designated port of entry or at a des-
3 ignated United States consulate abroad.

4 “(2) FAILURE TO RECORD DEPARTURE.—If an
5 alien does not record the alien’s departure as re-
6 quired under paragraph (1), the Secretary, not later
7 than 48 hours after the expiration of the alien’s pe-
8 riod of authorized admission, shall enter the name of
9 the alien into a database of the Department of
10 Homeland Security as having overstayed the alien’s
11 period of authorized admission.

12 “(3) INFORMATION SHARING WITH LAW EN-
13 FORCEMENT AGENCIES.—Consistent with the au-
14 thority of State and local police to assist the Federal
15 Government in the enforcement of Federal immigra-
16 tion laws, the information in the database described
17 in paragraph (2) shall be made available to State
18 and local law enforcement agencies pursuant to the
19 provisions of section 240D.”.

20 (f) EFFECTIVE DATE OF AGGRAVATED FELONY SEC-
21 TION.—

22 (1) IN GENERAL.—Notwithstanding section
23 203(b), and except as provided under paragraph (2),
24 the amendments made by section 203(a) shall—

1 (A) take effect on the date of the enact-
2 ment of this Act; and

3 (B) apply to any conviction that occurred
4 on or after the date of the enactment of this
5 Act.

6 (2) APPLICATION WITH RESPECT TO CONVIC-
7 TIONS FOR SEXUAL ABUSE OF A MINOR.—Notwith-
8 standing paragraph (1), the amendment made by
9 section 203(a)(2) related to the sexual abuse of a
10 minor shall apply to any conviction for sexual abuse
11 of a minor that occurred before, on, or after the date
12 of the enactment of this Act.

13 (3) APPLICATION OF IIRAIRA AMENDMENTS.—
14 In accordance with section 203(b)(2) of this Act, the
15 amendments to section 101(a)(43) of the Immigra-
16 tion and Nationality Act made by section 321 of the
17 Illegal Immigration Reform and Immigrant Respon-
18 sibility Act of 1996 (division C of Public Law 104-
19 208; 11 Stat. 3009–627) shall continue to apply,
20 whether the conviction was entered before, on, or
21 after September 30, 1996.

22 (g) INCREASED CRIMINAL PENALTIES RELATED TO
23 DRUNK DRIVING.—

24 (1) INADMISSIBILITY.—Section 212(a)(2)(K) of
25 the Immigration and Nationality Act, as added by

1 section 205(a)(1), is amended by inserting “or
2 convictions for driving under the influence under
3 Federal or State law,” after “imprisonment,”.

4 (2) DEPORTABILITY.—Section 237(a)(2)(F) of
5 the Immigration and Nationality Act, as added by
6 section 205(a)(2), is amended by inserting “or
7 convictions for driving under the influence under
8 Federal or State law,” after “imprisonment,”.

9 (h) DEFINITION OF CRIMINAL GANG.—Section
10 101(a)(52)(B)(iv) of the Immigration and Nationality Act,
11 as added by section 204(a), is amended by striking “which
12 is punishable by a sentence of imprisonment of 5 years
13 or more,”.

14 (i) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

15 (1) INADMISSIBILITY.—Section 212(a)(2)(F) of
16 the Immigration and Nationality Act, as added by
17 section 204(b), is amended to read as follows:

18 “(F) ALIENS ASSOCIATED WITH CRIMINAL
19 GANGS.—

20 “(i) IN GENERAL.—An alien is inad-
21 missible if—

22 “(I) a consular officer, the Sec-
23 retary of Homeland Security, or the
24 Attorney General knows, or has rea-

1 son to believe, that the alien is a
2 member of a criminal gang; or

3 “(II) a consular officer, the Sec-
4 retary of Homeland Security, or the
5 Attorney General knows or has reason
6 to believe that the alien has partici-
7 pated in the activities of a criminal
8 gang, knowing or having reason to
9 know that such activities would pro-
10 mote, further, aid, or support the ille-
11 gal activity of the criminal gang.

12 “(ii) WAIVER.—The Secretary of
13 Homeland Security or the Attorney Gen-
14 eral may, in the discretion of the Secretary
15 or the Attorney General, as appropriate,
16 waive an alien’s inadmissibility under
17 clause (i).”.

18 (2) DEPORTABILITY.—Section 237(a)(2) of the
19 Immigration and Nationality Act, as added by sec-
20 tion 204(c), is amended to read as follows:

21 “(F) ALIENS ASSOCIATED WITH CRIMINAL
22 GANGS.—

23 “(i) IN GENERAL.—An alien is deport-
24 able if—

1 “(iv) the alien is a member of a crimi-
2 nal gang.”.

3 (k) EFFECTIVE DATE.—Notwithstanding any other
4 provision of this Act, the amendments made by sub-
5 sections (i) and (j) of this section and subsections (b), (c),
6 and (d) of section 204 shall apply to—

7 (1) all aliens required to establish admissibility
8 on or after such date of enactment; and

9 (2) all aliens in removal, deportation, or exclu-
10 sion proceedings that are filed, pending, or reopened,
11 on or after such date of enactment.

12 (l) DETENTION PENDING DEPORTATION OF ALIENS
13 WHO OVERSTAY.—Section 236 of the Immigration and
14 Nationality Act (8 U.S.C. 1226)is amended—

15 (1) by redesignating subsection (e) as sub-
16 section (f); and

17 (2) by inserting after subsection (d) the fol-
18 lowing:

19 “(e) DETENTION OF ALIENS WHO EXCEED THE
20 ALIEN’S PERIOD OF AUTHORIZED ADMISSION.—

21 “(1) CUSTODY.—An alien shall be arrested and
22 detained by the Secretary of Homeland Security
23 pending a decision on whether the alien is to be re-
24 moved from the United States for willfully exceed-

1 ing, by 60 days or more, the period of the alien’s au-
2 thorized admission or parole into the United States.

3 “(2) WAIVER.—The Secretary of Homeland Se-
4 curity may waive the application of paragraph (1) if
5 the Secretary determines that the alien exceeded the
6 alien’s period of authorized admission or parole as a
7 result of exceptional circumstances beyond the con-
8 trol of the alien.”.

9 **SEC. ____ . WORKSITE ENFORCEMENT.**

10 (a) NOTIFICATION OF EXPIRATION OF ADMISSION.—
11 Notwithstanding any other provision of this Act, an em-
12 ployer or educational institution shall notify an alien in
13 writing of the expiration of the alien’s period of authorized
14 admission not later than 14 days before such eligibility
15 expires.

16 (b) UNLAWFUL EMPLOYMENT OF ALIENS.—

17 (1) IN GENERAL.—Section 274A(a) of the Im-
18 migration and Nationality Act, as amended by sec-
19 tion 302(a), is further amended—

20 (A) in paragraph (3), by striking subpara-
21 graphs (B) and (C) and inserting the following:

22 “(B) The Secretary may establish proce-
23 dures by which an employer may obtain con-
24 firmation from the Secretary that the con-

1 tractor or subcontractor has registered with the
2 EEVS and is utilizing the EEVS.

3 “(C) The Secretary may establish such
4 other requirements for employers using contrac-
5 tors or subcontractors as are necessary to pre-
6 vent knowing violations of this paragraph after
7 rulemaking pursuant to section 553 of title 5,
8 United States Code. The Secretary may issue
9 widely disseminated guidelines to clarify and
10 supplement the regulations issued hereunder
11 and disseminate the guidelines broadly in co-
12 ordination with the Private Sector Office of the
13 Department of Homeland Security.”; and

14 (B) by striking paragraph (6) and insert-
15 ing the following:

16 “(6) A rebuttable presumption is created that
17 an employer has acted with knowledge or reckless
18 disregard if the employer is shown by clear and con-
19 vincing evidence to have materially failed to comply
20 with written standards, procedures or instructions
21 issued by the Secretary. Standards, procedures or
22 instructions issued by the Secretary shall be objec-
23 tive and verifiable.”.

24 (2) DEFINITIONS.—Section 274A(b) of the Im-
25 migration and Nationality Act, as amended by sec-

1 tion 302(a), is further amended by striking para-
2 graph (2) and inserting the following:

3 “(2) DEFINITION OF EMPLOYER.—In this sec-
4 tion, the term ‘employer’ means any person or entity
5 hiring, recruiting, or referring an individual for a fee
6 for employment in the United States. Franchised
7 businesses that operate independently do not con-
8 stitute a single employer solely on the basis of shar-
9 ing a common brand.

10 “(3) DEFINITION OF CRITICAL INFRASTRUC-
11 TURE.—In this section, the term ‘critical infrastruc-
12 ture’ means agencies and departments of the United
13 States, States, their suppliers or contractors, and
14 any other employer whose employees have access as
15 part of their jobs to a government building, military
16 base, nuclear energy site, weapon site, airport, or
17 seaport.”.

18 (3) MANAGEMENT OF EEVS.—Section
19 274A(d)(9)(E)(v) of the Immigration and Nation-
20 ality Act, as amended by section 302(a), is further
21 amended by adding at the end the following: “The
22 Secretary shall further study the feasibility of pro-
23 viding other alternatives for employers that do not
24 have Internet access.”.

1 (4) REPEAT VIOLATOR.—Section 274A(h)(1) of
2 the Immigration and Nationality Act, as amended by
3 section 302(a), is amended by adding at the end the
4 following: “The Secretary shall define ‘repeat viola-
5 tor’, as used in this subsection, in a rulemaking that
6 complies with the requirements of section 553 of
7 title 5, United States Code.”.

8 (5) PREEMPTION.—Section 274A(i) of the Im-
9 migration and Nationality Act, as amended by sec-
10 tion 302(a), is amended by striking paragraph (2)
11 and inserting the following:

12 “(2) PREEMPTION.—The provisions of this sec-
13 tion shall preempt any State or local law that re-
14 quires the use of the EEVS in a fashion that—

15 “(A) conflicts with Federal policies, proce-
16 dures or timetables;

17 “(B) requires employers to verify whether
18 or not an individual is authorized to work in the
19 United States; or

20 “(C) imposes civil or criminal sanctions
21 (other than through licensing and similar laws)
22 upon those who employ, or recruit or refer for
23 a fee for employment, unauthorized aliens.”.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—Notwith-
25 standing the matter preceding subparagraph (A) of sec-

1 tion 310(a)(1), there are authorized to be appropriated to
2 the Secretary of Homeland Security, in each of the 2 fiscal
3 years beginning after the date of the enactment of this
4 Act, such sums as may be necessary to annually hire not
5 less than 2,500 personnel of the Department of Homeland
6 Security, who are to be assigned exclusively or principally
7 to an office or offices dedicated to monitoring and enforce-
8 ing compliance with sections 274A and 274C of the Immi-
9 gration and Nationality Act (8 U.S.C. 1324a and 1324e),
10 including compliance with the requirements of the EEVS.
11 These personnel shall perform the compliance and moni-
12 toring activities described in subparagraphs (A) through
13 (O) of section 310(a)(1).

14 **SEC. ____ . TEMPORARY WORKER PROGRAM.**

15 (a) H-1B STREAMLINING AND SIMPLIFICATION.—
16 Section 214(g) of the Immigration and Nationality Act,
17 as amended by this Act, is further amended—

18 (1) in paragraph (1)(A), by striking clauses (i)
19 through (vii) and inserting the following:

20 “(i) 115,000 in fiscal year 2008;

21 “(ii) in any subsequent fiscal year,
22 subject to clause (iii), the number for the
23 previous fiscal year as adjusted in accord-
24 ance with the method set forth in para-
25 graph (2); and

1 “(iii) 180,000 for any fiscal year;”;

2 and

3 (2) in paragraph (9), as redesignated by section

4 409—

5 (A) in subparagraph (B)—

6 (i) in clause (ii), by striking “The an-
7 nual numerical limitations described in
8 clause (i) shall not exceed” and inserting
9 “Without respect to the annual numerical
10 limitations described in clause (i), the Sec-
11 retary may issue a visa or otherwise grant
12 nonimmigrant status pursuant to section
13 101(a)(15)(H)(i)(b) in the following quan-
14 tities:”; and

15 (ii) by striking clause (iv); and

16 (B) by striking subparagraph (D).

17 (b) ENSURING ACCESS TO SKILLED WORKERS IN
18 SPECIALTY OCCUPATIONS.—

19 (1) IN GENERAL.—Section 214(g) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1184(g)), as
21 amended by title IV, is further amended—

22 (A) by striking paragraph (6), as redesign-
23 nated by section 409 of this Act, and inserting
24 the following:

1 “(6) The numerical limitations contained in
2 paragraph (1)(A) shall not apply to any non-
3 immigrant alien issued a visa or otherwise provided
4 status under section 101(a)(15)(H)(i)(b) who—

5 “(A) until the number of aliens who are
6 exempted from such numerical limitation under
7 this subparagraph during a fiscal year exceeds
8 20,000, has earned a master’s or higher degree
9 in science, technology, engineering, or mathe-
10 matics from an institution of higher education
11 outside of the United States;

12 “(B) until the number of aliens who are
13 exempted from such numerical limitation under
14 this subparagraph during a fiscal year exceeds
15 40,000, has earned a master’s or higher degree
16 from a United States institution of higher edu-
17 cation (as defined in section 101(a) of the
18 Higher Education Act of 1965); and

19 “(C) until the number of aliens who are
20 exempted from such numerical limitation under
21 this subparagraph during a fiscal year exceeds
22 50,000—

23 “(i) is employed (or has received an
24 offer of employment) at an institution of
25 higher education (as defined in section

1 (B) EFFECTIVE DATE.—The amendment
2 made by paragraph (1)(B) shall take effect on
3 the first day of the fiscal year following the fis-
4 cal year in which the backlog of employment-
5 based immigrant visa petitions existing as of
6 the effective date established under section
7 502(d).

8 (c) DOCUMENT REQUIREMENT.—Section 212(n)(1)
9 of the Immigration and Nationality Act, as amended by
10 section 420, is further amended—

11 (1) in subparagraph (A)—

12 (A) in clause (i)(II), by striking “, and”
13 and inserting a semicolon;

14 (B) in clause (ii), by striking the period at
15 the end and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(iii) will provide to the H–1B non-
18 immigrant—

19 “(I) a copy of each application
20 filed on behalf of the nonimmigrant
21 under this section; and

22 “(II) documentation supporting
23 each attestation, in accordance with
24 regulations promulgated by the Sec-
25 retary of Labor.”; and

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

2 “(L) An H–1B nonimmigrant may not be
3 stationed at the worksite of an employer other
4 than the petitioning employer or its affiliate,
5 subsidiary, or parent if the alien will be con-
6 trolled and supervised principally by such unaf-
7 filiated employer or if the placement of the
8 alien at the worksite of the affiliated employer
9 is essentially an arrangement to provide labor
10 for hire for the unaffiliated employer, rather
11 than a placement in connection with the provi-
12 sion of a product or service.”.

13 (d) FRAUD ASSESSMENT.—Not later than 30 days
14 after the date of the enactment of this Act, the Director
15 of United States Citizenship and Immigration Services
16 shall, subject to the availability of appropriations, submit
17 to Congress a fraud risk assessment of the H–1B visa pro-
18 gram.

19 (e) GROUNDS OF INADMISSIBILITY.—Section 218A(f)
20 of the Immigration and Nationality Act , as added by sec-
21 tion 402(a), is amended by striking paragraphs (2) and
22 (3) and inserting the following:

23 “(2) WAIVER.—For a Y nonimmigrant, the
24 Secretary of Homeland Security may waive those
25 provisions of section 212(a) for which the Secretary

1 had discretionary authority to waive before the date
2 of the enactment of the Secure Borders, Economic
3 Opportunity and Immigration Enforcement Act of
4 2007.”.

5 (f) TERMINATION.—Section 218A(j) of the Immigra-
6 tion and Nationality Act , as added by section 402(a), is
7 amended by striking paragraphs (2) and (3) and inserting
8 the following:

9 “(2) EXCEPTION.—The period of authorized
10 admission of a Y nonimmigrant shall not terminate
11 for unemployment under paragraph (1)(D) if the
12 alien attests under the penalty of perjury and sub-
13 mits documentation to the satisfaction of the Sec-
14 retary of Homeland Security that establishes that
15 such unemployment was the result of—

16 “(A) a period of physical or mental dis-
17 ability of the alien or the spouse, son, daughter,
18 or parent (as defined in section 101 of the
19 Family and Medical Leave Act of 1993 (29
20 U.S.C. 2611)) of the alien;

21 “(B) a period of vacation, medical leave,
22 maternity leave, or similar leave from employ-
23 ment authorized by Federal or State law or by
24 a policy of the alien’s employer; or

1 “(C) any other period of temporary unem-
2 ployment that is the direct result of a force
3 majeure event.

4 “(3) RETURN TO FOREIGN RESIDENCE.—An
5 alien who is a Y nonimmigrant whose period of au-
6 thorized admission terminates under paragraph (1)
7 shall immediately depart the United States.”.

8 (g) REGISTRATION OF DEPARTURE.—Section
9 218A(k) of the Immigration and Nationality Act, as added
10 by section 402(a), is amended by striking the subsection
11 heading and inserting the following:

12 “(k) LEAVING THE UNITED STATES.—

13 “(1) REGISTRATION OF DEPARTURE.—

14 “(A) IN GENERAL.—An alien who is a Y
15 nonimmigrant whose period of authorized ad-
16 mission has expired under subsection (i), or
17 whose period of authorized admission termi-
18 nates under subsection (j), shall register the de-
19 parture of such alien at a designated port of de-
20 parture or designated United States consulate
21 abroad in a manner to be prescribed by the
22 Secretary of Homeland Security.

23 “(B) EFFECT OF FAILURE TO DEPART.—

24 If an alien described in subparagraph (A) fails
25 to depart the United States or to register such

1 departure as required under subsection (j)(3),
2 the Secretary of Homeland Security shall—

3 “(i) take immediate action to deter-
4 mine the location of the alien; and

5 “(ii) if the alien is located in the
6 United States, remove the alien from the
7 United States.

8 “(C) INVALIDATION OF DOCUMENTA-
9 TION.—Any documentation issued by the Sec-
10 retary of Homeland Security under subsection
11 (m) to an alien described in subparagraph (A)
12 shall be invalid for any purpose except the de-
13 parture of the alien on and after the date on
14 which the period of authorized admission of
15 such alien terminates. The Secretary shall en-
16 sure that the invalidation of such documenta-
17 tion is recorded in the employment eligibility
18 verification system described in section 274A.

19 “(2) VISITS OUTSIDE THE UNITED STATES.—”.

20 (h) OVERSTAY.—Section 218A(o) of the Immigration
21 and Nationality Act , as added by section 402(a), is
22 amended by striking paragraph (2) and inserting the fol-
23 lowing:

24 “(2) Except as provided in paragraph (3) or
25 (4), any alien, other than a Y nonimmigrant, who,

1 after the date of the enactment of this section re-
2 mains unlawfully in the United States beyond the
3 period of authorized admission, is permanently
4 barred from any future benefits under Federal immi-
5 gration law.”.

6 **SEC. ____ . IMMIGRATION BENEFITS.**

7 (a) NUMERICAL LIMITS.—Section 201(d)(1)(A) of
8 the Immigration and Nationality Act, as amended by sec-
9 tion 501(b), is further amended—

10 (1) in clause (i), by striking “and” at the end;

11 (2) in clause (ii), by striking “Section 502(d) of
12 the [Insert title of Act].” and inserting “section
13 502(d) of the Secure Borders, Economic Oppor-
14 tunity and Immigration Enforcement Act of 2007;”;
15 and

16 (3) by adding at the end the following:

17 “(iii) up to 20,000 shall be for aliens
18 who met the specifications set forth in sec-
19 tion 203(b)(1) on January 1, 2007; and

20 “(iv) the remaining visas shall be allo-
21 cated as follows:

22 “(I) In fiscal years 2008 and
23 2009, 115,401 shall be for aliens who
24 are the beneficiaries of a petition filed

1 by an employer on their behalf under
2 this section.

3 “(II) In fiscal year 2010, 86,934
4 shall be for aliens who are the bene-
5 ficiaries of a petition filed by an em-
6 ployer on their behalf under this sec-
7 tion.

8 “(III) In fiscal year 2011,
9 58,467 shall be for aliens who are the
10 beneficiaries of a petition filed by an
11 employer on their behalf under this
12 section.

13 “(IV) In fiscal year 2012, 44,234
14 shall be for aliens who are the bene-
15 ficiaries of a petition filed by an em-
16 ployer on their behalf under this sec-
17 tion.”.

18 (b) MERIT-BASED IMMIGRANTS.—Section 203(b)(1)
19 of the Immigration and Nationality Act, as amended by
20 section 502(b)(1) of this Act, is further amended by add-
21 ing at the end the following:

22 “(G) Any employer desiring and intending
23 to employ within the United States an alien
24 qualified under subparagraph (A) may file a pe-

1 tition with the Secretary of Homeland Security
2 for such classification.

3 “(H) The Secretary shall collect applica-
4 tions and petitions not later than July 1 of each
5 fiscal year and shall adjudicate from the pool of
6 applicants received for that fiscal year, from the
7 highest to the lowest, the determined number of
8 points necessary for the fiscal year. If the num-
9 ber of applications and petitions submitted that
10 meet the merit-based threshold is insufficient
11 for the number of visas available that year, the
12 Secretary may continue accepting applications
13 and petitions at a date determined by the Sec-
14 retary to adjudicate the applications and peti-
15 tions under this section.”.

16 (c) EFFECTIVE DATE FOR PENDING AND APPROVED
17 PETITIONS AND APPLICATIONS.—Notwithstanding the
18 provisions under section 502(d)(2)—

19 (1) petitions for an employment-based visa filed
20 for classification under paragraphs (1), (2), or (3) of
21 section 203(b) of the Immigration and Nationality
22 Act (as such paragraphs existed on the date before
23 the date of the enactment of this Act) that were
24 filed before the date on which this Act was intro-
25 duced and were pending or approved on the effective

1 date of this section, shall be treated as if such provi-
2 sion remained effective and an approved petition
3 may serve as the basis for issuance of an immigrant
4 visa;

5 (2) the beneficiary, who has been classified as
6 a nonimmigrant described in section
7 101(a)(15)(H)(i)(b) of the Immigration and Nation-
8 ality Act, of such a pending or approved petition,
9 and any dependent accompanying or following to
10 join such beneficiary, may file an application for ad-
11 justment of status under section 245(a) of the Im-
12 migration and Nationality Act (8 U.S.C. 1255) re-
13 gardless of whether an immigrant visa is imme-
14 diately available at the time the application is filed;

15 (3) the application for adjustment of status
16 filed under paragraph (2) shall not be approved until
17 an immigrant visa becomes available; and

18 (4) aliens with applications for a labor certifi-
19 cation pursuant to section 212(a)(5)(A) of the Im-
20 migration and Nationality Act (8 U.S.C.
21 1182(a)(5)(A) shall preserve the immigrant visa pri-
22 ority date accorded by the date of filing of such
23 labor certification application.

1 (d) PARENT VISITOR VISAS.—Section 214(s) of the
2 Immigration and Nationality Act, as added by section
3 506(b), is amended—

4 (1) in paragraph (2)(B), by striking “\$1,000,
5 which shall be forfeit” and inserting “\$2,500, which
6 shall be forfeited”; and

7 (2) in paragraph (3), by amending subpara-
8 graph (A) to read as follows:

9 “(A) may not stay in the United States,
10 within any calendar year—

11 “(i) in the case of a spouse or child
12 sponsored by a nonimmigrant described in
13 section 101(a)(15)(Y)(i), for an aggregate
14 period in excess of 30 days; and

15 “(ii) in the case of a parent sponsored
16 by a United States citizen child, for an ag-
17 gregate period in excess of 100 days;”.

18 **SEC. ____ . Z NONIMMIGRANT STATUS.**

19 (a) APPLICATION AND BACKGROUND CHECKS.—Not-
20 withstanding any provision of section 601(g) or section
21 214A(d) of the Immigration and Nationality Act, as added
22 by section 622(b)—

23 (1) the application forms created pursuant to
24 section 601(g)(1) of this Act and section 214A(d) of
25 the Immigration and Nationality Act shall request

1 such information as the Secretary determines nec-
2 essary and appropriate, including information con-
3 cerning the alien's—

4 (A) physical and mental health;

5 (B) complete criminal history, including all
6 arrests and dispositions;

7 (C) gang membership;

8 (D) immigration history;

9 (E) employment history; and

10 (F) claims to United States citizenship;

11 and

12 (2) the Secretary shall utilize fingerprints and
13 other biometric data provided by the alien pursuant
14 to section 601(g)(3)(A) and any other appropriate
15 information to conduct appropriate background
16 checks of such alien to search for criminal, national
17 security, or other law enforcement actions that
18 would render the alien ineligible for classification
19 under section 601 of this Act or section 214A of the
20 Immigration and Nationality Act; and

21 (3) appropriate background checks conducted
22 pursuant to paragraph (2) for applicants determined
23 to be from countries designated as state sponsors of
24 terrorism or for whom there are reasonable grounds

1 for regarding the alien as a danger to the security
2 of the United States shall include—

3 (A) other appropriate background checks
4 involving databases operated by the Department
5 of State and other national security databases;
6 and

7 (B) other appropriate procedures used to
8 conduct terrorism and national security back-
9 ground investigations.

10 (b) PROBATIONARY BENEFITS.—Notwithstanding
11 any provision of section 601(h) or section 214A(d) of the
12 Immigration and Nationality Act, as added by section
13 622(b)—

14 (1) no probationary benefits described in sec-
15 tion 601(h)(1) of this Act or section 214A(d)(7) of
16 the Immigration and Nationality Act may be grant-
17 ed to any alien unless the alien passes all appro-
18 priate background checks under such section;

19 (2) an alien awaiting adjudication of the alien's
20 application for probationary status under such sec-
21 tions shall not be considered unauthorized to work
22 pending the granting or denial of such status; and

23 (3) the term unauthorized alien, for purposes of
24 such section, has the meaning set forth in section

1 274A(b) of the Immigration and Nationality Act, as
2 added by section 302(a) of this Act.

3 (c) RETURN HOME REQUIREMENT.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of title VI, an alien who is applying for a
6 Z–1 nonimmigrant visa under section 601 shall not
7 be eligible for such status until the alien, in addition
8 to the requirements described in such section, has
9 completed the following requirements:

10 (A) The alien shall demonstrate that the
11 alien departed from the United States and re-
12 ceived a home return certification of such de-
13 parture from a United States consular office in
14 order to complete the alien’s application for Z
15 status. The Secretary of State, in consultation
16 with the Secretary of Homeland Security, shall
17 develop an appropriate certification for such
18 purposes.

19 (B) The certification provided under sub-
20 paragraph (A) shall be obtained not later than
21 3 years after the date on which the alien was
22 granted probationary status. Failure to obtain
23 such certification shall terminate the alien’s eli-
24 gibility for Z status for a Z–1 applicant and the

1 eligibility of the applicant's derivative Z-2 or
2 Z-3 applicants pursuant to section 601.

3 (C) Unless otherwise authorized, an appli-
4 cant for a Z-1 nonimmigrant visa shall file a
5 home return supplement to the alien's applica-
6 tion for Z status at a consular office in the
7 alien's country of origin. The Secretary of State
8 may direct a consular office in a country that
9 is not a Z nonimmigrant's country of origin to
10 accept an application for adjustment of status
11 from such an alien, if the Z nonimmigrant's
12 country of origin is not contiguous to the
13 United States, to the extent made possible by
14 consular resources.

15 (2) RULEMAKING.—The Secretary of Homeland
16 Security shall promulgate regulations to ensure a se-
17 cure means for Z applicants to fulfill the require-
18 ments under paragraph (1).

19 (3) CLARIFICATION.—Notwithstanding any
20 other provision of this Act, The return home require-
21 ment described in paragraph (1) shall be the sole re-
22 turn home requirement for Z-1 nonimmigrants.

23 (d) ELECTRONIC SYSTEM FOR PREREGISTRATION OF
24 APPLICANTS FOR Z AND Z-A NONIMMIGRANT STATUS.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security may establish an online registration process
3 allowing applicants for Z and Z–A nonimmigrant
4 status to provide, in advance of submitting the appli-
5 cation described in section 601(f), such biographical
6 information and other information as the Secretary
7 shall prescribe—

8 (A) for the purpose of providing applicants
9 with an appointment to provide fingerprints
10 and other biometric data at a facility of the De-
11 partment of Homeland Security;

12 (B) to initiate background checks based on
13 such information; and

14 (C) for other purposes consistent with this
15 Act.

16 (2) MANDATORY DISCLOSURE OF INFORMA-
17 TION.—The provisions of section 604 shall apply to
18 the information provided pursuant to the process es-
19 tablished under this section.

20 (e) PERJURY AND FALSE STATEMENTS.—Notwith-
21 standing any other provision of this Act, all application
22 forms for immigration benefits, relief, or status under this
23 Act (including application forms for Z non-immigrant sta-
24 tus) shall bear a warning to the applicant and to any other
25 person involved in the preparation of the application that

1 the making of any false statement or misrepresentation
2 on the application form (or any supporting documenta-
3 tion) will subject the applicant or other person to prosecu-
4 tion for false statement, fraud, or perjury under the appli-
5 cable laws of the United States, including sections 1001,
6 1546, and 1621 of title 18, United States Code.

7 (f) FRAUD PREVENTION PROGRAM.—Notwith-
8 standing any other provision of this Act, the head of each
9 department responsible for the administration of a pro-
10 gram or authority to confer an immigration benefit, relief,
11 or status under this Act shall, subject to available appro-
12 priations, develop an administrative program to prevent
13 fraud within or upon such program or authority. Such
14 program shall provide for fraud prevention training for the
15 relevant administrative adjudicators within the depart-
16 ment and such other measures as the head of the depart-
17 ment may provide.

18 (g) ELIGIBILITY FOR MILITARY SERVICE.—In addi-
19 tion to the benefits described in subparagraphs (A)
20 through (D) of section 601(h)(1), an alien described in
21 such section shall be eligible to serve as a member of the
22 Uniformed Services of the United States.

1 **SEC. ____ . GOVERNMENT CONTRACTS.**

2 (a) GOVERNMENT CONTRACTS.—Section 274A(h) of
3 the Immigration and Nationality Act, as amended by sec-
4 tion 302 of this Act, is further amended by striking para-
5 graphs (1) and (2) and inserting the following:

6 “(1) EMPLOYERS.—

7 “(A) IN GENERAL.—If an employer who
8 does not hold Federal contracts, grants, or co-
9 operative agreements is determined by the Sec-
10 retary of Homeland Security to be a repeat vio-
11 lator of this section or is convicted of a crime
12 under this section, the employer shall be subject
13 to debarment from the receipt of Federal con-
14 tracts, grants, or cooperative agreements for a
15 period of not less than 5 years in accordance
16 with the procedures and standards prescribed
17 by the Federal Acquisition Regulations. The
18 Secretary or the Attorney General shall advise
19 the Administrator of General Services of any
20 such debarment, and the Administrator of Gen-
21 eral Services shall list the employer on the List
22 of Parties Excluded from Federal Procurement
23 and Nonprocurement Programs for the period
24 of the debarment.

25 “(B) WAIVER AUTHORITY.—After consid-
26 eration of the views of any agency or depart-

1 ment that holds a contract, grant, or coopera-
2 tive agreement with an employer described
3 under subparagraph (A), the Administrator of
4 General Services, in consultation with the Sec-
5 retary and the Attorney General, may waive the
6 debarment or may limit the duration or scope
7 of the debarment under subparagraph (A) if
8 such waiver or limitation is necessary to the na-
9 tional defense or in the interest of national se-
10 curity.

11 “(C) NOTIFICATION TO CONGRESS.—If the
12 Administrator of General Services grants a
13 waiver or limitation described under subpara-
14 graph (B), the Administrator shall submit no-
15 tice of such waiver or limitation to each mem-
16 ber of the Committee on the Judiciary of the
17 Senate and of the Committee on the Judiciary
18 of the House of Representatives.

19 “(2) CONTRACTORS AND RECIPIENTS.—

20 “(A) IN GENERAL.—If an employer who
21 holds Federal contracts, grants, or cooperative
22 agreements is determined by the Secretary of
23 Homeland Security to be a repeat violator of
24 this section or is convicted of a crime under this
25 section, the employer shall be subject to debar-

1 ment from the receipt of Federal contracts,
2 grants, or cooperative agreements for a period
3 of not less than 5 years in accordance with the
4 procedures and standards prescribed by the
5 Federal Acquisition Regulations. Prior to de-
6 barring the employer, the Secretary, in coopera-
7 tion with the Administrator of General Services,
8 shall advise all agencies holding contracts,
9 grants, or cooperative agreements with the em-
10 ployer of the proceedings to debar the employer
11 from the receipt of new Federal contracts,
12 grants, or cooperative agreements for a period
13 of not less than 5 years.

14 “(B) WAIVER AUTHORITY.—After consid-
15 eration of the views of any agency or depart-
16 ment that holds a contract, grant, or coopera-
17 tive agreement with an employer described
18 under subparagraph (A), the Administrator of
19 General Services, in consultation with the Sec-
20 retary and the Attorney General, may waive the
21 debarment or may limit the duration or scope
22 of the debarment under subparagraph (A) if
23 such waiver or limitation is necessary to the na-
24 tional defense or in the interest of national se-
25 curity.

1 “(C) NOTIFICATION TO CONGRESS.—If the
2 Administrator of General Services grants a
3 waiver or limitation described under subpara-
4 graph (B), the Administrator shall submit no-
5 tice of such waiver or limitation to each mem-
6 ber of the Committee on the Judiciary of the
7 Senate and of the Committee on the Judiciary
8 of the House of Representatives.”.

9 (b) LIMIT ON PERCENTAGE OF H-1B AND L EM-
10 PLOYEES.—Subparagraph (I) of section 212(n)(1) of the
11 Immigration and Nationality Act (8 U.S.C. 1182(n)(1)),
12 as added by section 420(d), is amended to read as follows:

13 “(I) If the employer employs not less than
14 50 employees in the United States, not more
15 than 50 percent of such employees are H-1B
16 nonimmigrants and nonimmigrants described in
17 section 101(a)(15)(L).”.

18 (c) WAGE DETERMINATION FOR H-1B NON-
19 IMMIGRANTS.—

20 (1) CHANGE IN MINIMUM WAGES.—Section
21 212(p)(3) of the Immigration and Nationality Act (8
22 U.S.C. 1182(p)(3)) is amended by adding at the end
23 the following sentence: “The wage rate required
24 under subsections (n)(1)(A)(i)(II) and
25 (t)(1)(A)(i)(II) shall be determined and issued by

1 the Secretary of Labor, pursuant to a request from
2 an employer filing a labor condition application with
3 the Secretary for purposes of those subsections and
4 as part of the adjudication of such application. The
5 Secretary shall respond to such a request within 14
6 days.”.

7 (2) LABOR CONDITION APPLICATIONS.—Section
8 212(n)(1)(A) of the Immigration and Nationality
9 Act (8 U.S.C. 1182(n)(1)(A)) is amended—

10 (A) in clause (i), by striking “and” at the
11 end;

12 (B) by redesignating clause (ii) as clause
13 (iv); and

14 (C) by inserting after clause (i) the fol-
15 lowing new clauses:

16 “(ii) has filed with the Secretary of
17 Labor, pursuant to section 212(p)(3), a re-
18 quest for the Secretary’s determination of
19 the appropriate wage rate;

20 “(iii) in no instance will pay more
21 than 30 percent of the H-1B non-
22 immigrants employed by the employer
23 wages equivalent to the lowest wage level
24 under section 212(p)(4); and”.

1 (3) NONIMMIGRANT PROFESSIONALS; LABOR
2 ATTESTATIONS.—Section 212 of the Immigration
3 and Nationality Act (8 U.S.C. 1182) is amended in
4 paragraph (1)(A) of the first subsection (t) (as
5 added by section 402(b)(2) of Public Law 108–77
6 (117 Stat. 941))—

7 (A) in clause (i), by striking “and” at the
8 end;

9 (B) by redesignating clause (ii) as clause
10 (iii); and

11 (C) inserting after clause (i) the following
12 new clause:

13 “(ii) has filed with the Secretary of
14 Labor, pursuant to section 212(p)(3), a re-
15 quest for the Secretary’s determination of
16 the appropriate wage rate; and”.

17 (4) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to applications filed on
19 or after the date of the enactment of this Act.

20 (d) PROHIBITION ON OUTPLACEMENT OF H–1B
21 NONIMMIGRANTS.—

22 (1) IN GENERAL.—Section 212(n) of such Act,
23 as amended by this Act, is further amended—

1 (A) in paragraph (1), by amending sub-
2 paragraph (F), as amended by section 420, to
3 read as follows:

4 “(F) The employer shall not place,
5 outsource, lease, or otherwise contract for the
6 placement of an H-1B nonimmigrant with an-
7 other employer where there are indicia of an
8 employment relationship between the non-
9 immigrant and such other employer unless the
10 employer of the alien has been granted a waiver
11 under paragraph (2)(E).”; and

12 (B) in paragraph (2), by amending sub-
13 paragraph (E), as amended by section 420, to
14 read as follows:

15 “(E) The Secretary of Labor shall promul-
16 gate rules, after notice and a period for com-
17 ment, for an employer of an H-1B non-
18 immigrant to apply for a waiver of the prohibi-
19 tion in paragraph (1)(F). The Secretary shall
20 grant or deny a waiver within 14 days after the
21 waiver application is filed. In order to receive a
22 waiver under this subparagraph, the burden
23 shall be on the employer seeking the waiver to
24 establish that—

1 “(i) the employer with whom the non-
2 immigrant would be placed has not dis-
3 placed and does not intend to displace a
4 United States worker employed by the em-
5 ployer within the period beginning 180
6 days before and ending 180 days after the
7 date of the placement of the nonimmigrant
8 with the employer;

9 “(ii) the nonimmigrant will not be
10 controlled and supervised principally by the
11 employer with whom the nonimmigrant
12 would be placed; and

13 “(iii) the placement of the non-
14 immigrant is not essentially an arrange-
15 ment to provide labor for hire for the em-
16 ployer with whom the nonimmigrant will
17 be placed.”.

18 (2) APPLICATION.—The amendments made by
19 paragraph (1) shall apply to an application filed on
20 or after the date the rules required by section
21 212(n)(2)(E) of such Act, as amended by paragraph
22 (1)(B) of this subsection, are issued.

23 (e) POSTING AVAILABLE POSITIONS.—

24 (1) POSTING AVAILABLE POSITIONS.—Section
25 212(n)(1)(C) of such Act is amended—

1 (A) by redesignating clause (ii) as sub-
2 clause (II);

3 (B) by striking “(i) has provided” and in-
4 serting the following:

5 “(ii)(I) has provided”; and

6 (C) by inserting before clause (ii), as re-
7 designated by subparagraph (B), the following:

8 “(i) has posted a detailed description
9 of each position for which a nonimmigrant
10 is sought on the website described in para-
11 graph (6) of this subsection for at least 30
12 calendar days, which description shall in-
13 clude the wages and other terms and con-
14 ditions of employment, the minimum edu-
15 cation, training, experience and other re-
16 quirements for the position, and the proc-
17 ess for applying for the position; and”.

18 (2) DEPARTMENT OF LABOR WEBSITE.—Sec-
19 tion 212(n) of such Act, as amended by this section,
20 is further amended by adding at the end the fol-
21 lowing:

22 “(6)(A) Not later than 90 days after the date
23 of the enactment of this paragraph, the Secretary of
24 Labor shall establish a searchable website for post-

1 ing positions as required by paragraph (1)(C). This
2 website shall be publicly accessible without charge.

3 “(B) The Secretary may work with private com-
4 panies and nonprofit organizations in the develop-
5 ment and operation of the website established under
6 this paragraph.

7 “(C) The Secretary may promulgate rules, after
8 notice and a period for comment, to carry out the
9 requirements of this paragraph.”.

10 (3) APPLICATION.—The amendments made by
11 paragraph (1) shall apply to an application filed 30
12 days or more after the date that the website re-
13 quired by section 212(n)(6) of such Act, as added by
14 paragraph (2) of this subsection, is created.

15 (f) WAGE DETERMINATION FOR L NON-
16 IMMIGRANTS.—

17 (1) CHANGE IN MINIMUM WAGES.—Paragraph
18 (2) of section 214(c) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1184(c)) is amended by adding
20 at the end the following:

21 “(K)(i) An employer that employs a non-
22 immigrant described in section 101(a)(15)(L)
23 shall—

24 “(I) offer such nonimmigrant, during
25 the period of authorized employment,

1 wages, based on the best information avail-
2 able at the time the application is filed,
3 which are not less than the highest of—

4 “(aa) the prevailing wage level
5 for the occupational classification in
6 the area of employment; or

7 “(bb) the actual wage level paid
8 by the employer to all other individ-
9 uals with similar experience and quali-
10 fications for the specific employment
11 in question; and

12 “(II) provide working conditions for
13 such nonimmigrant that will not adversely
14 affect the working conditions of workers
15 similarly employed.

16 “(ii) If an employer, in such previous pe-
17 riod specified by the Secretary of Homeland Se-
18 curity, employed 1 or more L-1 nonimmigrants,
19 the employer shall provide to the Secretary of
20 Homeland Security the Internal Revenue Serv-
21 ice Form W-2 Wage and Tax Statement filed
22 by the employer with respect to such non-
23 immigrants for such period.

24 “(iii) It is a failure to meet a condition
25 under this subparagraph for an employer, who

1 has filed a petition to import 1 or more aliens
2 as nonimmigrants described in section
3 101(a)(15)(L), to—

4 “(I) require such a nonimmigrant to
5 pay a penalty for ceasing employment with
6 the employer before a date mutually agreed
7 to by the nonimmigrant and the employer;
8 or

9 “(II) fail to offer to such a non-
10 immigrant, during the nonimmigrant’s pe-
11 riod of authorized employment, on the
12 same basis, and in accordance with the
13 same criteria, as the employer offers to
14 United States workers, benefits and eligi-
15 bility for benefits, including—

16 “(aa) the opportunity to partici-
17 pate in health, life, disability, and
18 other insurance plans;

19 “(bb) the opportunity to partici-
20 pate in retirement and savings plans;
21 and

22 “(cc) cash bonuses and noncash
23 compensation, such as stock options
24 (whether or not based on perform-
25 ance).

1 “(iv) The Secretary of Homeland Security
2 shall determine whether a required payment
3 under clause (iii)(I) is a penalty (and not liq-
4 uidated damages) pursuant to relevant State
5 law.”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by this subsection shall apply to applications filed on
8 or after the date of the enactment of this Act.

9 (g) PROHIBITION ON OUTPLACEMENT OF L NON-
10 IMMIGRANTS.—

11 (1) IN GENERAL.—Paragraph (2) of section
12 214(c) of the Immigration and Nationality Act (8
13 U.S.C. 1184(c)), as amended by this section, is fur-
14 ther amended by adding at the end the following:

15 “(M)(i) An employer who imports an alien
16 as a nonimmigrant described in section
17 101(a)(15)(L) shall not place, outsource, lease,
18 or otherwise contract for the placement of the
19 alien with another employer where there are in-
20 dicia of an employment relationship between the
21 alien and such other employer unless the em-
22 ployer of the alien has been granted a waiver
23 under clause (ii).

24 “(ii) The Secretary of Homeland Security
25 shall promulgate rules, after notice and a period

1 for comment, for an employer to apply for a
2 waiver of the prohibition set out in clause (i).
3 The Secretary shall grant or deny a waiver
4 within 14 days after the waiver application is
5 filed. In order to receive such a waiver, the bur-
6 den shall be on the employer seeking the waiver
7 to establish that—

8 “(I) the employer with whom the non-
9 immigrant would be placed has not dis-
10 placed and does not intend to displace a
11 United States worker employed by the em-
12 ployer within the period beginning 180
13 days before and ending 180 days after the
14 date of the placement of the nonimmigrant
15 with the employer;

16 “(II) the nonimmigrant will not be
17 controlled and supervised principally by the
18 employer with whom the nonimmigrant
19 would be placed; and

20 “(III) the placement of the non-
21 immigrant is not essentially an arrange-
22 ment to provide labor for hire for the em-
23 ployer with whom the nonimmigrant will
24 be placed, rather than a placement in con-
25 nection with the provision or a product or

1 service for which specialized knowledge
2 specific to the petitioning employer is nec-
3 essary.”.

4 (2) APPLICATION.—The amendment made by
5 paragraph (1) shall apply to an application filed on
6 or after the date the rules required by section
7 212(c)(2)(M)(ii) of such Act, as added by paragraph
8 (1) of this subsection, are issued.

1 **SEC. ____ . H-1B PROVISIONS.**

2 (a) REPEAL OF CERTAIN TEMPORARY WORKER PRO-
3 VISIONS.—The following amendments are null and void
4 and have no effect:

5 (1) The amendments to subsection (b) of sec-
6 tion 214 of the Immigration and Nationality Act (8
7 U.S.C. 1184) made by subsection (c) of section 418
8 of this Act.

9 (2) The amendments to subsection (h) of such
10 section 214 made by subsection (d) of such section
11 418.

12 (3) The amendments to subsection (g) of such
13 section 214 made by subsection (a) of section 419
14 of this Act.

15 (4) The amendments to paragraph (2) of sub-
16 section (i) of such made by subsection (b) such of
17 section 419.

18 (b) GRANTING DUAL INTENT TO CERTAIN NON-
19 IMMIGRANT STUDENTS.—Subsection (h) of section 214 of
20 the Immigration and Nationality Act (8 U.S.C. 1184) is
21 amended—

22 (1) by striking “(H)(i)(b) or (c),” and inserting
23 “(F)(iv), (H)(i)(b), (H)(i)(c),”; and

24 (2) by striking “if the alien had obtained a
25 change of status” and inserting “if the alien had

1 1101(a)(15)(H)(i)(b) in the following
2 quantities:”; and

3 (ii) by striking clause (iv); and

4 (B) by striking subparagraph (D).

5 (d) ENSURING ACCESS TO SKILLED WORKERS IN
6 SPECIALTY OCCUPATIONS.—

7 (1) IN GENERAL.—Paragraph (6) of section
8 214(g) of the Immigration and Nationality Act (8
9 U.S.C. 1184(g)), as redesignated by section 409, is
10 amended to read as follows:

11 “(6) The numerical limitations contained in
12 paragraph (1)(A) shall not apply to any non-
13 immigrant alien issued a visa or otherwise provided
14 status under section 101(a)(15)(H)(i)(b) who—

15 “(A) until the number of aliens who are
16 exempted from such numerical limitation under
17 this subparagraph during a year exceeds 50,000

18 “(i) is employed (or has received an
19 offer of employment) at an institution of
20 higher education (as defined in section
21 101(a) of the Higher Education Act of
22 1965) (20 U.S.C. 1001(a)), or a related or
23 affiliated nonprofit entity; or

24 “(ii) is employed (or has received an
25 offer of employment) at a nonprofit re-

1 search organization or a governmental re-
2 search organization;

3 “(B) has earned a master’s or higher de-
4 gree from a United States institution of higher
5 education (as defined in section 101(a) of the
6 Higher Education Act of 1965 (20 U.S.C.
7 1001(a)), until the number of aliens who are
8 exempted from such numerical limitation under
9 this subparagraph during a year exceeds
10 40,000; or

11 “(C) has earned a master’s or higher de-
12 gree in science, technology, engineering, or
13 mathematics from an institution of higher edu-
14 cation outside of the United States, until the
15 number of aliens who are exempted from such
16 numerical limitation under this subparagraph
17 during a year exceeds 20,000.”.

18 (e) EMPLOYER REQUIREMENT.—Section 214(g) of
19 the Immigration and Nationality Act (8 U.S.C. 1184(g)),
20 as redesignated by section 409, is further amended to add
21 the following:

22 “(13) An employer that has at least 1,000 full-
23 time employees who are employed in the United
24 States, including employment authorized aliens, and
25 employs aliens admitted or provided status as a non-

1 immigrant described in section 101(a)(15)(H)(i)(b)
2 in a number that is equal to or at least 15 percent
3 of the number of such full-time employees, may file
4 no more than 1,000 petitions under subsection (c) to
5 import aliens under section 101(a)(15)(H)(i)(b) in
6 any fiscal year.”.

7 (f) APPLICABILITY.—The amendment made by sub-
8 section (d) shall apply to any petition or visa application
9 pending on the date of enactment of this Act and any peti-
10 tion or visa application filed on or after such date. The
11 amendment made by subsection (e) shall take effect on
12 the first day of the fiscal year following the fiscal year
13 in which the backlog of employment-based immigrant visa
14 petitions existing as of the effective date established in
15 section 502(d) of this Act

16 (g) DOCUMENT REQUIREMENT.—Paragraph (1) of
17 section 212(n) of the Immigration and Nationality Act (8
18 U.S.C. 1182(n)), as amended by this Act, is further
19 amended—

20 (1) in subparagraph (A)—

21 (A) in clause (i), by striking “and” at the
22 end;

23 (B) in clause (ii), by striking the period at
24 the end and inserting a semicolon and “and”;
25 and

1 (C) by adding at the end the following:

2 “(iii) will provide to the H-1B non-im-
3 migrant—

4 “(I) a copy of each application
5 filed on behalf of the n nonimmigrant
6 under this section; and

7 “(II) documentation supporting
8 each attestation, in accordance with
9 regulations promulgated by the Sec-
10 retary of Labor.”;

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

12 “(L) An H-1B nonimmigrant may not be
13 stationed at the worksite of an employer other
14 than the petitioning employer or its affiliate,
15 subsidiary, or parent if the alien will be con-
16 trolled and supervised principally by such unaf-
17 filiated employer or if the placement of the
18 alien at the worksite of the affiliated employer
19 is essentially an arrangement to provide labor
20 for hire for the unaffiliated employer, rather
21 than a placement in connection with the provi-
22 sion of a product or service.”.

23 (h) FRAUD ASSESSMENT.—Not later than 30 days
24 after the date of the enactment of this Act, the Director
25 of United States Citizenship and Immigration Services

1 shall submit to Congress a fraud risk assessment of the
2 H-1B visa program.

3 (i) MERIT-BASED IMMIGRANTS.—Section 201(d) of
4 the Immigration and Nationality Act (8 U.S.C. 11519(d)),
5 as amended by section 501(b) to is amended to read as
6 follows:

7 “(d) WORLDWIDE LEVEL OF MERIT-BASED, SPE-
8 CIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—

9 “(1) IN GENERAL.—The worldwide level of
10 merit-based, special, and employment creation immi-
11 grants under this subsection for a fiscal year—

12 “(A) for the first five fiscal years shall be
13 equal to the number of immigrant visas made
14 available to aliens seeking immigrant visas
15 under section 203(b) of this Act for fiscal year
16 2005, plus any immigrant visas not required for
17 the class specified in (c), of which—

18 “(i) at least 10,000 will be for excep-
19 tional aliens in nonimmigrant status under
20 section 101(a)(15)(Y);

21 “(ii) 90,000 will be for aliens who
22 were the beneficiaries of an application
23 that was pending or approved at the time
24 of the effective date of section 502(d) of

1 the Secure Borders, Economic Opportunity
2 and Immigration Reform Act of 2007;

3 “(iii) up to 20,000 shall be for aliens
4 who met the specifications set forth in sec-
5 tion 203(b)(1)(as of January 1, 2007); and

6 “(iv) the remaining visas be allocated
7 as follows:

8 “(I) In fiscal year 2008 and
9 2009, 115,401 shall be for aliens who
10 are the beneficiaries of a petition filed
11 by an employer on their behalf under
12 this section.

13 “(II) In fiscal year 2010, 86,934
14 shall be for aliens who are the bene-
15 ficiaries of a petition filed by an em-
16 ployer on their behalf under this sec-
17 tion.

18 “(III) In fiscal year 2011,
19 58,467 shall be for aliens who are the
20 beneficiaries of a petition filed by an
21 employer on their behalf under this
22 section.

23 “(IV) In fiscal year 2012, 44,234
24 shall be for aliens who are the bene-
25 ficiaries of a petition filed by an em-

1 ployer on their behalf under this sec-
2 tion.”.

3 (j) AMENDMENTS TO MERIT-BASED IMMIGRANT
4 PROVISIONS.—Section 203(b) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1153(b)), as amended by section
6 502(b), is further amended in paragraph (1) by adding
7 at the end the following new subparagraphs:

8 “(G) Any employer desiring and intending
9 to employ within the United States an alien
10 qualified under (A) may file a petition with the
11 Secretary of Homeland Security for such classi-
12 fication.

13 “(H) The Secretary of Homeland Security
14 shall collect applications and petitions by July
15 1 of each fiscal year and will adjudicate from
16 the pool of applicants received for that fiscal
17 year, from the highest to the lowest, the deter-
18 mined number of points necessary for the fiscal
19 year. If the number of applications and peti-
20 tions submitted that meet the merit based
21 threshold is insufficient for the number of visas
22 available that year, the Secretary is authorized
23 to continue accepting applications and petitions
24 at a date determined by the Secretary to adju-

1 dicate the applications and petitions under this
2 section.”.

3 (k) EFFECTIVE DATE.—

4 (1) REPEAL.—Paragraph (2) of section 502(d)
5 is null and void and shall have no effect.

6 (2) PENDING AND APPROVED PETITIONS AND
7 APPLICATIONS.—Petitions for an employment-based
8 visa filed for classification under section 203(b)(1),
9 (2), or (3) of the Immigration and Nationality Act
10 (as such provisions existed prior to the enactment of
11 section 502) that were pending or approved at the
12 time of the effective date of section 502, shall be
13 treated as if such provision remained effective and
14 an approved petition may serve as the basis for
15 issuance of an immigrant visa. The beneficiary (as
16 classified for this subparagraph as a nonimmigrant
17 described in section 101(a)(15)(H)(i)(b) of the Im-
18 migration and Nationality Act (8 U.S.C.
19 1101(a)(15)(H)(i)(b)) of such a pending or approved
20 petition, and any dependent accompanying or fol-
21 lowing to join such beneficiary, may file an applica-
22 tion for adjustment of status under section 245(a)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1255(a)) regardless of whether an immigrant visa is
25 immediately available at the time the application is

1 filed. Such application for adjustment of status shall
2 not be approved until an immigrant visa becomes
3 available. Aliens with applications for a labor certifi-
4 cation pursuant to section 212(a)(5)(A) of the Im-
5 migration and Nationality Act (8 U.S.C.
6 1182(a)(5)(A)) shall preserve the immigrant visa
7 priority date accorded by the date of filing of such
8 labor certification application.

9 **SEC. ____ . INFORMATION SHARING BETWEEN FEDERAL AND**
10 **LOCAL LAW ENFORCEMENT OFFICERS**
11 **[COLEMAN].**

12 (a) IN GENERAL.—The certification submitted under
13 section 1(a) shall include a statement that the Secretary
14 of Homeland Security has promulgated a regulation stat-
15 ing that no person, agency, or Federal, State, or local gov-
16 ernment entity may prohibit a law enforcement officer
17 from acquiring information regarding the immigration sta-
18 tus of any individual if the officer seeking such informa-
19 tion has probable cause to believe that the individual is
20 not lawfully present in the United States.

21 (b) RULE OF CONSTRUCTION.—Nothing in sub-
22 section (a) may be construed—

23 (1) to limit the acquisition of information as
24 otherwise provided by law; or

1 (2) to require a person to disclose information
2 regarding an individual's immigration status prior to
3 the provision of medical or education services.

1 **SEC. ____ . SUPPLEMENTAL IMMIGRATION FEE.**

2 (a) **AUTHORIZATION OF FEE.—**

3 (1) **IN GENERAL.—**Subject to paragraph (2),
4 any alien who receives any immigration benefit
5 under this title, or the amendments made by this
6 title, shall, before receiving such benefit, pay a fee
7 to the Secretary in an amount equal to \$500, in ad-
8 dition to other applicable fees and penalties imposed
9 under this title, or the amendments made by this
10 title.

11 (2) **FEEES CONTINGENT ON APPROPRIATIONS.—**

12 No fee may be collected under this section except to
13 the extent that the expenditure of the fee to pay the
14 costs of activities and services for which the fee is
15 imposed, as described in subsection (b), is provided
16 for in advance in an appropriations Act.

17 (b) **DEPOSIT AND EXPENDITURE OF FEES.—**

18 (1) **DEPOSIT.—**Amounts collected under sub-
19 section (a) shall be deposited as an offsetting collec-
20 tion in, and credited to, the accounts providing ap-
21 propriations—

22 (A) to carry out the apprehension and de-
23 tention of any alien who is inadmissible by rea-
24 son of any offense described in section 212(a)
25 of the Immigration and Nationality Act;

1 (B) to carry out the apprehension and de-
2 tention of any alien who is deportable for any
3 offense under section 237(a) of such Act;

4 (C) to acquire border sensor and surveil-
5 lance technology;

6 (D) for air and marine interdiction, oper-
7 ations, maintenance, and procurement;

8 (E) for construction projects in support of
9 the United States Customs and Border Protec-
10 tion;

11 (F) to train Federal law enforcement per-
12 sonnel; and

13 (G) for employment eligibility verification.

14 (2) AVAILABILITY OF FEES.—Amounts depos-
15 ited under paragraph (1) shall remain available until
16 expended for the activities and services described in
17 paragraph (1).

1 **SEC. ____ . INCLUSION OF PROBATIONARY BENEFITS IN**
2 **TRIGGER PROVISION.**

3 Notwithstanding section 1(a), no probationary ben-
4 efit authorized under section 601(h) may be issued to an
5 alien until after section 1 has been implemented.

1 **SEC. ____ . CERTIFICATION REQUIREMENT.**

2 (a) IN GENERAL.—A petition by an employer for any
3 visa authorizing employment in the United States may not
4 be approved until the employer has provided written cer-
5 tification, under penalty of perjury, to the Secretary of
6 Labor that—

7 (1) the employer has not provided a notice of
8 a mass layoff pursuant to the Worker Adjustment
9 and Retraining Notification Act (29 U.S.C. 2101 et
10 seq.) during the 12-month period immediately pre-
11 ceding the date on which the alien is to be hired;
12 and

13 (2) the employer does not intend to provide a
14 notice of a mass layoff pursuant to such Act.

15 (b) EFFECT OF MASS LAYOFF.—If an employer pro-
16 vides a notice of a mass layoff pursuant to such Act after
17 a visa described in subsection (a) has been approved, such
18 visa shall expire on the date that is 60 days after the date
19 on which such notice is provided.

20 (c) EXEMPTION.—An employer shall be exempt from
21 the requirements under this section if the employer pro-
22 vides written certification, under penalty of perjury, that
23 the total number of the employer's employees in the
24 United States will not be reduced as a result of a mass
25 layoff.

1 **TITLE ___ —STRENGTHENING**
2 **AMERICAN CITIZENSHIP**

3 **SEC. __01. SHORT TITLE.**

4 This title may be cited as the “Secure Borders, Eco-
5 nomic Opportunity and Immigration Reform Act of
6 2007”.

7 **SEC. __02. DEFINITION.**

8 In this title, the term “Oath of Allegiance” means
9 the binding oath (or affirmation) of allegiance required to
10 be naturalized as a citizen of the United States, as pre-
11 scribed in subsection (e) of section 337 of the Immigration
12 and Nationality Act (8 U.S.C. 1448(e)), as added by sec-
13 tion __31(a)(2).

14 **Subtitle A—Learning English**

15 **SEC. __11. ENGLISH FLUENCY.**

16 (a) EDUCATION GRANTS.—

17 (1) ESTABLISHMENT.—The Chief of the Office
18 of Citizenship of the Department (referred to in this
19 subsection as the “Chief”) shall establish a grant
20 program to provide grants in an amount not to ex-
21 ceed \$500 to assist lawful permanent residents of
22 the United States who declare an intent to apply for
23 citizenship in the United States to meet the require-
24 ments under section 312 of the Immigration and
25 Nationality Act (8 U.S.C. 1423).

1 (2) USE OF FUNDS.—Grant funds awarded
2 under this subsection shall be paid directly to an ac-
3 credited institution of higher education or other
4 qualified educational institution (as determined by
5 the Chief) for tuition, fees, books, and other edu-
6 cational resources required by a course on the
7 English language in which the lawful permanent
8 resident is enrolled.

9 (3) APPLICATION.—A lawful permanent resi-
10 dent desiring a grant under this subsection shall
11 submit an application to the Chief at such time, in
12 such manner, and accompanied by such information
13 as the Chief may reasonably require.

14 (4) PRIORITY.—If insufficient funds are avail-
15 able to award grants to all qualified applicants, the
16 Chief shall give priority based on the financial need
17 of the applicants.

18 (5) NOTICE.—The Secretary, upon relevant reg-
19 istration of a lawful permanent resident with the
20 Department of Homeland Security, shall notify such
21 lawful permanent resident of the availability of
22 grants under this subsection for lawful permanent
23 residents who declare an intent to apply for United
24 States citizenship.

1 (b) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—
2 Section 316 of the Immigration and Nationality Act (8
3 U.S.C. 1427) is amended by adding at the end the fol-
4 lowing:

5 “(g) A lawful permanent resident of the United
6 States who demonstrates English fluency, in accordance
7 with regulations prescribed by the Secretary of Homeland
8 Security, in consultation with the Secretary of State, will
9 satisfy the residency requirement under subsection (a)
10 upon the completion of 4 years of continuous legal resi-
11 dency in the United States.”.

12 **SEC. 12. SAVINGS PROVISION.**

13 Nothing in this subtitle shall be construed to—

14 (1) modify the English language requirements
15 for naturalization under section 312(a)(1) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1423(a)(1)); or

18 (2) influence the naturalization test redesign
19 process of the Office of Citizenship of the United
20 States Citizenship and Immigration Services (except
21 for the requirement under section 31(b)).

1 **Subtitle B—Education About the**
2 **American Way of Life**

3 **SEC. 21. AMERICAN CITIZENSHIP GRANT PROGRAM.**

4 (a) IN GENERAL.—The Secretary shall establish a
5 competitive grant program to provide financial assistance
6 for—

7 (1) efforts by entities (including veterans and
8 patriotic organizations) certified by the Office of
9 Citizenship of the Department to promote the patri-
10 otic integration of prospective citizens into the
11 American way of life by providing civics, history, and
12 English as a second language courses, with a specific
13 emphasis on attachment to principles of the Con-
14 stitution of the United States, the heroes of Amer-
15 ican history (including military heroes), and the
16 meaning of the Oath of Allegiance; and

17 (2) other activities approved by the Secretary to
18 promote the patriotic integration of prospective citi-
19 zens and the implementation of the Immigration and
20 Nationality Act (8 U.S.C. 1101 et seq.), including
21 grants—

22 (A) to promote an understanding of the
23 form of government and history of the United
24 States; and

1 (B) to promote an attachment to the prin-
2 ciples of the Constitution of the United States
3 and the well being and happiness of the people
4 of the United States.

5 (b) ACCEPTANCE OF GIFTS.—The Secretary may ac-
6 cept and use gifts from the United States Citizenship
7 Foundation, established under section __22(a), for grants
8 under this section.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to carry out this section.

12 **SEC. __22. FUNDING FOR THE OFFICE OF CITIZENSHIP.**

13 (a) AUTHORIZATION.—The Secretary, acting through
14 the Director of United States Citizenship and Immigration
15 Services, is authorized to establish the United States Citi-
16 zenship Foundation (referred to in this section as the
17 “Foundation”), an organization duly incorporated in the
18 District of Columbia, exclusively for charitable and edu-
19 cational purposes to support the functions of the Office
20 of Citizenship, which shall include the patriotic integration
21 of prospective citizens into—

22 (1) American common values and traditions, in-
23 cluding an understanding of the history of the
24 United States and the principles of the Constitution
25 of the United States; and

1 (2) civic traditions of the United States, includ-
2 ing the Pledge of Allegiance, respect for the flag of
3 the United States, and voting in public elections.

4 (b) DEDICATED FUNDING.—

5 (1) IN GENERAL.—Not less than 1.5 percent of
6 the funds made available to United States Citizen-
7 ship and Immigration Services (including fees and
8 appropriated funds) shall be dedicated to the func-
9 tions of the Office of Citizenship, which shall include
10 the patriotic integration of prospective citizens
11 into—

12 (A) American common values and tradi-
13 tions, including an understanding of American
14 history and the principles of the Constitution of
15 the United States; and

16 (B) civic traditions of the United States,
17 including the Pledge of Allegiance, respect for
18 the flag of the United States, and voting in
19 public elections.

20 (2) SENSE OF CONGRESS.—It is the sense of
21 Congress that dedicating increased funds to the Of-
22 fice of Citizenship should not result in an increase
23 in fees charged by United States Citizenship and
24 Immigration Services.

25 (c) GIFTS.—

1 (1) TO FOUNDATION.—The Foundation may so-
2 licit, accept, and make gifts of money and other
3 property in accordance with section 501(c)(3) of the
4 Internal Revenue Code of 1986.

5 (2) FROM FOUNDATION.—The Office of Citizen-
6 ship may accept gifts from the Foundation to sup-
7 port the functions of the Office.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary to carry out the mission of the Office of Citizen-
11 ship, including the patriotic integration of prospective citi-
12 zens into—

13 (1) American common values and traditions, in-
14 cluding an understanding of American history and
15 the principles of the Constitution of the United
16 States; and

17 (2) civic traditions of the United States, includ-
18 ing the Pledge of Allegiance, respect for the flag of
19 the United States, and voting in public elections.

20 **SEC. 23. RESTRICTION ON USE OF FUNDS.**

21 Amounts appropriated to carry out a program under
22 this subtitle may not be used to organize individuals for
23 the purpose of political activism or advocacy.

1 **SEC. 24. REPORTING REQUIREMENT.**

2 The Chief of the Office of Citizenship shall submit
3 to the Committee on Health, Education, Labor, and Pen-
4 sions of the Senate, the Committee on the Judiciary of
5 the Senate, the Committee on Education and Labor of the
6 House of Representatives, and the Committee on the Judi-
7 ciary of the House of Representatives, an annual report
8 that contains—

9 (1) a list of the entities that have received
10 funds from the Office of Citizenship during the re-
11 porting period under this subtitle and the amount of
12 funding received by each such entity;

13 (2) an evaluation of the extent to which grants
14 received under this subtitle and subtitle A success-
15 fully promoted an understanding of—

16 (A) the English language; and

17 (B) American history and government, in-
18 cluding the heroes of American history, the
19 meaning of the Oath of Allegiance, and an at-
20 tachment to the principles of the Constitution
21 of the United States; and

22 (3) information about the number of lawful per-
23 manent residents who were able to achieve the
24 knowledge described under paragraph (2) as a result
25 of the grants provided under this subtitle and sub-
26 title A.

1 **Subtitle C—Codifying the Oath of**
2 **Allegiance**

3 **SEC. 31. OATH OR AFFIRMATION OF RENUNCIATION AND**
4 **ALLEGIANCE.**

5 (a) REVISION OF OATH.—Section 337 of the Immi-
6 gration and Nationality Act (8 U.S.C. 1448) is amend-
7 ed—

8 (1) in subsection (a), by striking “under section
9 310(b) an oath” and all that follows through “per-
10 sonal moral code.” and inserting “under section
11 310(b), the oath (or affirmation) of allegiance pre-
12 scribed in subsection (e).”; and

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

14 “(e)(1) Subject to paragraphs (2) and (3), the oath
15 (or affirmation) of allegiance prescribed in this subsection
16 is as follows: ‘I take this oath solemnly, freely, and without
17 any mental reservation. I absolutely and entirely renounce
18 all allegiance to any foreign state or power of which I have
19 been a subject or citizen. My fidelity and allegiance from
20 this day forward are to the United States of America. I
21 will bear true faith and allegiance to the Constitution and
22 laws of the United States, and will support and defend
23 them against all enemies, foreign and domestic. I will bear
24 arms, or perform noncombatant military or civilian serv-

1 ice, on behalf of the United States when required by law.

2 This I do solemnly swear, so help me God.’.

3 “(2) If a person, by reason of religious training and
4 belief (or individual interpretation thereof) or for other
5 reasons of good conscience, cannot take the oath pre-
6 scribed in paragraph (1)—

7 “(A) with the term ‘oath’ included, the term
8 ‘affirmation’ shall be substituted for the term ‘oath’;
9 and

10 “(B) with the phrase ‘so help me God’ included,
11 the phrase ‘so help me God’ shall be omitted.

12 “(3) If a person shows by clear and convincing evi-
13 dence to the satisfaction of the Attorney General that such
14 person, by reason of religious training and belief, cannot
15 take the oath prescribed in paragraph (1)—

16 “(A) because such person is opposed to the
17 bearing of arms in the Armed Forces of the United
18 States, the words ‘bear arms, or’ shall be omitted;
19 and

20 “(B) because such person is opposed to any
21 type of service in the Armed Forces of the United
22 States, the words ‘bear arms, or’ and ‘noncombatant
23 military or’ shall be omitted.

24 “(4) As used in this subsection, the term ‘religious
25 training and belief’—

1 “(A) means a belief of an individual in relation
2 to a Supreme Being involving duties superior to
3 those arising from any human relation; and

4 “(B) does not include essentially political, socio-
5 logical, or philosophical views or a merely personal
6 moral code.

7 “(5) Any reference in this title to ‘oath’ or ‘oath of
8 allegiance’ under this section shall be deemed to refer to
9 the oath (or affirmation) of allegiance prescribed under
10 this subsection.”.

11 (b) HISTORY AND GOVERNMENT TEST.—The Sec-
12 retary shall incorporate a knowledge and understanding
13 of the meaning of the Oath of Allegiance into the history
14 and government test given to applicants for citizenship.

15 (c) NOTICE TO FOREIGN EMBASSIES.—Upon the
16 naturalization of a new citizen, the Secretary, in coopera-
17 tion with the Secretary of State, shall notify the embassy
18 of the country of which the new citizen was a citizen or
19 subject that such citizen has—

20 (1) renounced allegiance to that foreign coun-
21 try; and

22 (2) sworn allegiance to the United States.

23 (d) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall take effect on the date that is 6
25 months after the date of the enactment of this Act.

1 **Subtitle D—Celebrating New**
2 **Citizens**

3 **SEC. 41. ESTABLISHMENT OF NEW CITIZENS AWARD PRO-**
4 **GRAM.**

5 (a) **ESTABLISHMENT.**—There is established a new
6 citizens award program to recognize citizens who—

7 (1) have made an outstanding contribution to
8 the United States; and

9 (2) are naturalized during the 10-year period
10 ending on the date of such recognition.

11 (b) **PRESENTATION AUTHORIZED.**—

12 (1) **IN GENERAL.**—The President is authorized
13 to present a medal, in recognition of outstanding
14 contributions to the United States, to citizens de-
15 scribed in subsection (a).

16 (2) **MAXIMUM NUMBER OF AWARDS.**—Not more
17 than 10 citizens may receive a medal under this sec-
18 tion in any calendar year.

19 (c) **DESIGN AND STRIKING.**—The Secretary of the
20 Treasury shall strike a medal with suitable emblems, de-
21 vices, and inscriptions, to be determined by the President.

22 (d) **NATIONAL MEDALS.**—The medals struck pursu-
23 ant to this section are national medals for purposes of
24 chapter 51 of title 31, United States Code.

1 **SEC. 42. NATURALIZATION CEREMONIES.**

2 (a) IN GENERAL.—The Secretary, in consultation
3 with the Director of the National Park Service, the Archi-
4 vist of the United States, and other appropriate Federal
5 officials, shall develop and implement a strategy to en-
6 hance the public awareness of naturalization ceremonies.

7 (b) VENUES.—In developing the strategy under this
8 section, the Secretary shall consider the use of outstanding
9 and historic locations as venues for select naturalization
10 ceremonies.

11 (c) REPORTING REQUIREMENT.—The Secretary shall
12 annually submit a report to Congress that contains—

13 (1) the content of the strategy developed under
14 this section; and

15 (2) the progress made towards the implementa-
16 tion of such strategy.

1 **SEC. ____ . EMPLOYER OBLIGATION TO DOCUMENT COM-**
2 **PARABLE JOB OPPORTUNITIES.**

3 (a) IN GENERAL.—Section 218B(b) of the Immigra-
4 tion and Nationality Act, as added by section 403 of this
5 Act, is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (C), by striking
8 “and” at the end;

9 (B) in subparagraph (D), by striking the
10 period at the end and insert “; and”; and

11 (C) by adding at the end the following:

12 “(E) documenting that for a period of not
13 less than 90 days before the date an application
14 is filed under subsection (a)(1), and for a pe-
15 riod of 1 year after the date that such applica-
16 tion is filed, every comparable job opportunity
17 (including those in the same occupation for
18 which an application for a Y–1 worker is made,
19 and all other job opportunities for which com-
20 parable education, training, or experience are
21 required), that becomes available at the em-
22 ployer is posted to the designated State employ-
23 ment service agency, including a description of
24 the wages and other terms and conditions of
25 employment and the minimum education, train-
26 ing, experience and other requirements of the

1 job, and the designated State agency has been
2 authorized—

3 “(i) to post all such job opportunities
4 on the Internet website established under
5 section 414 of the Secure Borders, Eco-
6 nomic Opportunity and Immigration Re-
7 form Act of 2007, with local job banks,
8 and with unemployment agencies and other
9 referral and recruitment sources pertinent
10 to the job involved; and

11 “(ii) to notify labor organizations in
12 the State in which the job is located and,
13 if applicable, the office of the local union
14 which represents the employees in the
15 same or substantially equivalent job classi-
16 fication of the job opportunity.”;

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

19 (3) by inserting after paragraph (1), the fol-
20 lowing:

21 “(2) PENALTY FOR FAILURE TO DOCUMENT
22 COMPLIANCE.—The failure of an employer to docu-
23 ment compliance with paragraph (1)(E) shall result
24 in the employer’s ineligibility to make a subsequent
25 application under subsection (a)(1) during the 1-

1 year period following the initial application. The Sec-
2 retary of Labor shall routinely publicize the require-
3 ment under paragraph (1)(E) in communications
4 with employers, and encourage State agencies to also
5 publicize such requirement, to help employers be-
6 come aware of and comply with such requirement in
7 a timely manner.”.

8 (b) DEFINITION OF EMPLOYER.—Section 274A(b) of
9 the Immigration and Nationality Act (8 U.S.C. 1324a(b)),
10 as amended by subsection (a) of the first section 302 (re-
11 lating to unlawful employment of aliens), is further
12 amended by striking paragraph (2).

1 **SEC. ____ . TREATMENT OF CERTAIN NATIONALS OF IRAQ.**

2 (a) **REQUIREMENT FOR REHEARING OF CERTAIN**
3 **CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CON-**
4 **DITIONS.**—Section 208(b) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1158(b)) is amended by adding at the
6 end the following:

7 “(4) **CHANGED COUNTRY CONDITIONS.**—The
8 Attorney General shall accept and grant a motion
9 filed not later than 6 months after the date of the
10 enactment of this paragraph for rehearing before an
11 immigration judge of an application for asylum or
12 withholding of removal if the alien—

13 “(A) is a religious minority from Iraq
14 whose claim was denied by an immigration
15 judge in whole or in part on the basis of
16 changed country conditions on or after March
17 1, 2003; and

18 “(B) has remained in the United States as
19 of the date of the enactment of this para-
20 graph.”.

21 (b) **CONSIDERATION OF CERTAIN NATIONALS FROM**
22 **IRAQ AS PRIORITY 2 REFUGEES.**—Subject to the numer-
23 ical limitations established pursuant to section 207 of the
24 Immigration and Nationality Act (8 U.S.C. 1157), the
25 Secretary of State or a designee of the Secretary shall
26 present to the Secretary of Homeland Security, and the

1 Secretary of Homeland Security or a designee of the Sec-
2 retary shall adjudicate, any application for refugee status
3 under section 207 of the Immigration and Nationality Act
4 (8 U.S.C. 1157) submitted by an applicant who—

5 (1) is a national of Iraq;

6 (2) is able to demonstrate that he or she is a
7 member of a religious minority group in Iraq; and

8 (3) is able to demonstrate that he or she left
9 Iraq before January 1, 2007, and has resided out-
10 side Iraq since that time.

1 **SEC. ____ . PREEMPTION.**

2 In section 274A(i) of the Immigration and Nation-
3 ality Act, as amended by section 302(a) of this Act, strike
4 paragraph (2) and insert the following:

5 “(2) PREEMPTION.—This section preempts any
6 State or local law that—

7 “(A) requires the use of the EEVS in a
8 manner that—

9 “(i) conflicts with any Federal policy,
10 procedure, or timetable; or

11 “(ii) imposes a civil or criminal sanc-
12 tion (other than through licensing or other
13 similar laws) on a person that employs, or
14 recruits or refers for a fee for employment,
15 any unauthorized alien; and

16 “(B) requires, as a condition of con-
17 ducting, continuing, or expanding a business,
18 that, to achieve compliance with subsection (a)
19 or (b), a business entity—

20 “(i) shall provide, build, fund, or
21 maintain a shelter, structure, or designated
22 area at or near the place of business of the
23 entity for use by—

24 “(I) any individual who is not an
25 employee of the business entity who
26 enters or seeks to enter the property

1 of the entity for the purpose of seek-
2 ing employment by the entity; or

3 “(II) any contractor, customer,
4 or other person over which the busi-
5 ness entity has no authority; or

6 “(ii) shall carry out any other activity
7 to facilitate the employment by others of—

8 “(I) any individual who is not an
9 employee of the business entity who
10 enters or seeks to enter the property
11 of the entity for the purpose of seek-
12 ing employment by the entity; or

13 “(II) any contractor, customer,
14 or other person over which the busi-
15 ness entity has no authority.”.

16

1 **SEC. ____ . CLARIFYING AMENDMENTS REGARDING THE USE**
2 **OF SOCIAL SECURITY CARDS.**

3 (a) USE OF SOCIAL SECURITY CARDS TO ESTABLISH
4 IDENTITY AND EMPLOYMENT AUTHORIZATION.—Section
5 274A of the Immigration and Nationality Act, as amended
6 by section 302, is further amended—

7 (1) in subsection (c)(1)—

8 (A) in subparagraph (B)—

9 (i) in clause (ii)(III), by striking “;
10 or” and inserting a semicolon;

11 (ii) in clause (iii), by striking the end
12 period and inserting “; or”; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(iv) social security card (other than
16 a card that specifies on its face that the
17 card is not valid for establishing employ-
18 ment authorization in the United States)
19 that bears a photograph and meets the
20 standards established under section 716(d)
21 of the Secure Borders, Economic Oppor-
22 tunity, and Immigration Reform Act of
23 2007, upon the recommendation of the
24 Secretary of Homeland Security, in con-
25 sultation with the Commissioner of Social

1 Security, pursuant to section 716(f)(1) of
2 such Act.”; and

3 (B) in subparagraph (D)(i), by striking
4 “may” and inserting “shall, not later than the
5 date on which the report described in section
6 716(f)(1) of the Secure Borders, Economic Op-
7 portunity, and Immigration Reform Act of
8 2007, is submitted,”; and

9 (2) in subsection (d)(9)(B)(v)(I), by striking
10 “as specified in (D)” and inserting “as specified in
11 subparagraph (D), including photographs and any
12 other biometric information as may be required”.

13 (b) ACCESS TO SOCIAL SECURITY CARD INFORMA-
14 TION.—Section 205(c)(2)(I)(i) of the Social Security Act,
15 as added by section 308, is further amended by inserting
16 at the end of the flush text at the end the following new
17 sentence: “As part of the employment eligibility
18 verification system established under section 274A of the
19 Immigration and Nationality Act, the Commissioner of
20 Social Security shall provide to the Secretary of Homeland
21 Security access to any photograph, other feature, or infor-
22 mation included in the social security card.”

23 (c) INCREASING SECURITY AND INTEGRITY OF SO-
24 CIAL SECURITY CARDS.—Notwithstanding any other pro-
25 vision of this Act, section 305 of this Act is repealed.

1 (d) FRAUD-RESISTANT, TAMPER-RESISTANT, AND
2 WEAR-RESISTANT SOCIAL SECURITY CARDS.—

3 (1) ISSUANCE.—Not later than first day of the
4 second fiscal year in which amounts are appro-
5 priated pursuant to the authorization of appropria-
6 tions in subsection (g), the Commissioner of Social
7 Security shall begin to administer and issue fraud-
8 resistant, tamper-resistant, and wear-resistant social
9 security cards displaying a photograph.

10 (2) INTERIM.—Not later than the first day of
11 the seventh fiscal year in which amounts are appro-
12 priated pursuant to the authorization of appropria-
13 tions in subsection (g), the Commissioner of Social
14 Security shall issue only fraud-resistant, tamper-re-
15 sistant, and wear-resistant social security cards dis-
16 playing a photograph.

17 (3) COMPLETION.—Not later than the first day
18 of the tenth fiscal year in which amounts are appro-
19 priated pursuant to the authorization of appropria-
20 tions in subsection (g), all social security cards that
21 are not fraud-resistant, tamper-resistant, and wear-
22 resistant shall be invalid for establishing employment
23 authorization for any individual 16 years of age or
24 older.

1 (4) EXEMPTION.—Nothing in this section shall
2 require an individual under the age of 16 years to
3 be issued or to present for any purpose a social se-
4 curity card described in this subsection. Nothing in
5 this section shall prohibit the Commissioner of So-
6 cial Security from issuing a social security card not
7 meeting the requirements of this subsection to an in-
8 dividual under the age of 16 years who otherwise
9 meets the eligibility requirements for a social secu-
10 rity card.

11 (e) ADDITIONAL DUTIES OF THE SOCIAL SECURITY
12 ADMINISTRATION.—In accordance with the responsibil-
13 ities of the Commissioner of Social Security under section
14 205(c)(2)(I) of the Social Security Act, as added by sec-
15 tion 308, the Commissioner—

16 (1) shall issue a social security card to an indi-
17 vidual at the time of the issuance of a social security
18 account number to such individual, which card
19 shall—

20 (A) contain such security and identification
21 features as determined by the Secretary of
22 Homeland Security, in consultation with the
23 Commissioner; and

24 (B) be fraud-resistant, tamper-resistant,
25 and wear-resistant;

1 (2) in consultation with the Secretary of Home-
2 land Security, shall issue regulations specifying such
3 particular security and identification features, re-
4 newal requirements (including updated photo-
5 graphs), and standards for the social security card
6 as necessary to be acceptable for purposes of estab-
7 lishing identity and employment authorization under
8 the immigration laws of the United States; and

9 (3) may not issue a replacement social security
10 card to any individual unless the Commissioner de-
11 termines that the purpose for requiring the issuance
12 of the replacement document is legitimate.

13 (f) REPORTING REQUIREMENTS.—

14 (1) REPORT ON THE USE OF IDENTIFICATION
15 DOCUMENTS.—Not later than the first day of the
16 tenth fiscal year in which amounts are appropriated
17 pursuant to the authorization of appropriations in
18 subsection (g), the Secretary of Homeland Security
19 shall submit to Congress a report recommending
20 which documents, if any, among those described in
21 section 274A(c)(1) of the Immigration and Nation-
22 ality Act, should continue to be used to establish
23 identity and employment authorization in the United
24 States.

1 (2) REPORT ON IMPLEMENTATION.—Not later
2 than 12 months after the date on which the Com-
3 missioner begins to administer and issue fraud-re-
4 sistant, tamper-resistant, and wear-resistant cards
5 under subsection (d)(1), and annually thereafter, the
6 Commissioner shall submit to Congress a report on
7 the implementation of this section. The report shall
8 include analyses of the amounts needed to be appro-
9 priated to implement this section, and of any meas-
10 ures taken to protect the privacy of individuals who
11 hold social security cards described in this section.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out this section and the amendments
15 made by this section.

1 **SEC. ____ . PRECLUSION OF SOCIAL SECURITY CREDITS**
2 **PRIOR TO ENUMERATION OR FOR ANY PE-**
3 **RIOD WITHOUT WORK AUTHORIZATION.**

4 (a) **INSURED STATUS.**—Section 214 of the Social Se-
5 curity Act (42 U.S.C. 414) is amended—

6 (1) by striking subsections (c) and (d), as
7 added by section 607, and inserting the following:

8 “(c) The criterion specified in this subsection is that
9 the individual, if not a citizen or national of the United
10 States—

11 “(1) has been assigned a social security account
12 number that was, at the time of assignment, or at
13 any later time, consistent with the requirements
14 under subelause (I) or (III) of section
15 205(c)(2)(B)(i); or

16 “(2) at the time any such quarters of coverage
17 are earned—

18 “(A) is described in subparagraph (B) or
19 (D) of section 101(a)(15) of the Immigration
20 and Nationality Act (8 U.S.C. 1101(a)(15));

21 “(B) is lawfully admitted temporarily to
22 the United States for business (in the case of
23 an individual described in such subparagraph
24 (B)) or the performance as a crewman (in the
25 case of an individual described in such subpara-
26 graph (D)); and

1 “(C) the business engaged in, or service as
2 a crewman performed, is within the scope of the
3 terms of such individual’s admission to the
4 United States.

5 “(d)(1) Except as provided in paragraph (2), no
6 quarter of coverage shall be credited for purposes of this
7 section if, with respect to any individual who is assigned
8 a social security account number on or after the date of
9 the enactment of the Secure Borders, Economic Oppor-
10 tunity and Immigration Reform Act of 2007, such quarter
11 of coverage is earned prior to the year in which such social
12 security account number is assigned.

13 “(2) Paragraph (1) shall not apply with respect to
14 any quarter of coverage earned by an individual who, at
15 such time such quarter of coverage is earned, satisfies the
16 criterion specified in subsection (e)(2).”.

17 (b) BENEFIT COMPUTATION.—Section 215(e)(3) of
18 such Act, as added by section 607(b)(3), is amended—

19 (1) by inserting “who is assigned a social secu-
20 rity account number on or after the date of enact-
21 ment of the Secure Borders, Economic Opportunity
22 and Immigration Reform Act of 2007” after “earn-
23 ings of an individual”;

24 (2) by striking “for any year”; and

1 (3) by striking “section 214(c)” and inserting
2 “section 214(d)”.

3 (c) EFFECTIVE DATE.—Notwithstanding section
4 607(c), the amendments made by this section and by sec-
5 tion 607 shall take effect on the date of the enactment
6 of this Act.

1 **SEC. ____ . PROTECTION FOR SCHOLARS.**

2 (a) NONIMMIGRANT CATEGORY.—Section 101(a)(15)
3 (8 U.S.C. 1101(a)(15)) of the Immigration and Nation-
4 ality Act is amended by striking subparagraph (W), as
5 added by section 401(a)(4), and inserting the following:

6 “(W) subject to section 214(s), an alien—

7 “(i) who the Secretary of Homeland
8 Security determines—

9 “(I) is a scholar; and

10 “(II) is subject to a risk of grave
11 danger or persecution in the alien’s
12 country of nationality on account of
13 the alien’s belief, scholarship, or iden-
14 tity; or

15 “(ii) who is the spouse or child of an
16 alien described in clause (i) who is accom-
17 panying or following to join such alien;”.

18 (b) CONDITIONS.—Section 214 of the Immigration
19 and Nationality Act (8 U.S.C. 1184), as amended by this
20 Act, is further amended by adding at the end the fol-
21 lowing:

22 “(s) REQUIREMENTS APPLICABLE TO PERSECUTED
23 SCHOLARS.—

24 “(1) ELIGIBILITY.—

25 “(A) IN GENERAL.—An alien is eligible for
26 nonimmigrant status under section

1 101(a)(15)(W)(i) if the alien demonstrates that
2 the alien is a scholar in any field who is subject
3 to a risk of grave danger or persecution in the
4 alien’s country of nationality on account of the
5 alien’s belief, scholarship, or identity.

6 “(B) CONSULTATION.—In determining eli-
7 gibility of aliens under subparagraph (A), the
8 Secretary of Homeland Security shall consult
9 with nationally recognized organizations that
10 have not less than 5 years of experience in as-
11 sisting and funding scholars needing to escape
12 dangerous conditions.

13 “(2) NUMERICAL MINIMUMS.—The number of
14 aliens who may be issued visas or otherwise provided
15 status as nonimmigrants under section
16 1101(a)(15)(W) in any fiscal year may not be less
17 than 2,000, unless the Secretary determines that
18 less than 2,000 aliens who are qualified for such sta-
19 tus are seeking such status during the fiscal year.

20 “(3) CREDIBLE EVIDENCE CONSIDERED.—In
21 acting on any application filed under this subsection,
22 the consular officer or the Secretary of Homeland
23 Security, as appropriate, shall consider any credible
24 evidence relevant to the application, including infor-

1 mation received in connection with the consultation
2 required under paragraph (1)(B).

3 “(4) NONEXCLUSIVE RELIEF.—Nothing in this
4 subsection limits the ability of an alien who qualifies
5 for status under section 101(a)(15)(W) to seek any
6 other immigration benefit or status for which the
7 alien may be eligible.

8 “(5) DURATION OF STATUS.—

9 “(A) INITIAL PERIOD.—The initial period
10 of admission of an alien granted status as a
11 nonimmigrant under section 101(a)(15)(W)
12 shall be not more than 2 years.

13 “(B) EXTENSION OF PERIOD.—The period
14 of admission described in subparagraph (A)
15 may be extended for 1 additional 2-year pe-
16 riod.”.

17 (c) EMPLOYMENT CREATION VISAS.—Section
18 203(b)(3) of the Immigration and Nationality Act, as re-
19 designated and amended by section 502(b)(3), is further
20 amended—

21 (1) in subparagraph (A), by striking “2,800”
22 and inserting “10,000”; and

23 (2) in subparagraph (B), by striking “1,500”
24 and inserting “7,500”.

1 **SEC. ____ . REPORT ON Y NONIMMIGRANT VISAS.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity shall annually report to Congress on the number of
4 Y nonimmigrant visa holders that do not report at a port
5 of departure and return to their foreign residence, as re-
6 quired under section 218A(j)(3) of the Immigration and
7 Nationality Act, as added by section 402 of this Act.

8 (b) TIMING OF REPORTS.—

9 (1) INITIAL REPORT.—The initial report re-
10 quired under subsection (a) shall be submitted to
11 Congress not later than 2 years and 2 months after
12 the date on which the Secretary of Homeland Secu-
13 rity makes the certification described in section 1(a)
14 of this Act.

15 (2) SUBSEQUENT REPORTS.—Following the
16 submission of the initial report under paragraph (1),
17 each subsequent report required under subsection
18 (a) shall be submitted to Congress not later than 60
19 days after the end of each calendar year.

20 (c) REQUIRED ACTION.—Based upon the findings in
21 the reports required under subsection (a), the Secretary,
22 for the following calendar year, shall reduce the number
23 of available Y nonimmigrant visas by a number which is
24 equal to the number of Y nonimmigrant visa holders who
25 do not return to their foreign residence, as required under

1 section 218A(j)(3) of the Immigration and Nationality
2 Act, as added by section 402 of this Act.

3 (d) INFORMATION SHARING.—Title II of the Immi-
4 gration and Nationality Act (8 U.S.C. 1151 et. seq.) is
5 amended by adding after section 240D, as added by sec-
6 tion 223(a) of this Act, the following:

7 **“SEC. 240E. INFORMATION SHARING WITH STATE AND**
8 **LOCAL LAW ENFORCEMENT AGENCIES AND**
9 **POLITICAL SUBDIVISIONS AND TRANSFER OF**
10 **ALIENS TO FEDERAL CUSTODY.**

11 “(a) AUTHORITY.—Consistent with the authority of
12 State and local law enforcement agencies and political sub-
13 divisions to assist the Federal Government in the enforce-
14 ment of Federal immigration laws, the Secretary of Home-
15 land Security or the Attorney General may make available
16 information collected and maintained pursuant to any pro-
17 vision of this Act. Nothing in this section may be con-
18 strued to require law enforcement personnel of a State or
19 a political subdivision to assist in the enforcement of the
20 immigration laws of the United States.

21 “(b) TRANSFER.—If the head of a law enforcement
22 entity of a State (or, if appropriate, a political subdivision
23 of the State) exercising authority with respect to the ap-
24 prehension or arrest of an alien submits a request to the
25 Secretary of Homeland Security that the alien be taken

1 into Federal custody, the Secretary of Homeland Secu-
2 rity—

3 “(1) shall—

4 “(A) deem the request to include the in-
5 quiry to verify immigration status described in
6 section 642(c) of the Illegal Immigration Re-
7 form and Immigrant Responsibility Act of 1996
8 (8 U.S.C. 1373(c)), and expeditiously inform
9 the requesting entity whether such individual is
10 an alien lawfully admitted to the United States
11 or is otherwise lawfully present in the United
12 States; and

13 “(B) if the individual is an alien who is not
14 lawfully admitted to the United States or other-
15 wise is not lawfully present in the United
16 States—

17 “(i) take the illegal alien into the cus-
18 tody of the Federal Government not later
19 than 72 hours after—

20 “(I) the conclusion of the State
21 charging process or dismissal process;
22 or

23 “(II) the illegal alien is appre-
24 hended, if no State charging or dis-
25 missal process is required; or

1 “(ii) request that the relevant State or
2 local law enforcement agency temporarily
3 detain or transport the alien to a location
4 for transfer to Federal custody; and

5 “(2) shall designate at least 1 Federal, State,
6 or local prison or jail or a private contracted prison
7 or detention facility within each State as the central
8 facility for that State to transfer custody of aliens
9 to the Department of Homeland Security.

10 “(c) REIMBURSEMENT.—

11 “(1) IN GENERAL.—The Secretary of Homeland
12 Security shall reimburse a State, or a political sub-
13 division of a State, for expenses, as verified by the
14 Secretary, incurred by the State or political subdivi-
15 sion in the detention and transportation of an alien
16 as described in subparagraphs (A) and (B) of sub-
17 section (a)(1).

18 “(2) COST COMPUTATION.—Compensation pro-
19 vided for costs incurred under subparagraphs (A)
20 and (B) of subsection (a)(1) shall be equal to—

21 “(A) the product of—

22 “(i) the average daily cost of incarcer-
23 ation of a prisoner in the relevant State, as
24 determined by the chief executive officer of

1 a State (or, as appropriate, a political sub-
2 division of the State); multiplied by

3 “(ii) the number of days that the alien
4 was in the custody of the State or political
5 subdivision; plus

6 “(B) the cost of transporting the alien
7 from the point of apprehension or arrest to the
8 location of detention, and if the location of de-
9 tention and of custody transfer are different, to
10 the custody transfer point; plus

11 “(C) the cost of uncompensated emergency
12 medical care provided to a detained alien during
13 the period between the time of transmittal of
14 the request described in subsection (b) and the
15 time of transfer into Federal custody.

16 “(d) REQUIREMENT FOR APPROPRIATE SECURITY.—
17 The Secretary of Homeland Security shall ensure that—

18 “(1) aliens incarcerated in a Federal facility
19 pursuant to this section are held in facilities which
20 provide an appropriate level of security; and

21 “(2) if practicable, aliens detained solely for
22 civil violations of Federal immigration law are sepa-
23 rated within a facility or facilities.

24 “(e) REQUIREMENT FOR SCHEDULE.—In carrying
25 out this section, the Secretary of Homeland Security shall

1 establish a regular circuit and schedule for the prompt
2 transportation of apprehended aliens from the custody of
3 those States, and political subdivisions of States, which
4 routinely submit requests described in subsection (b), into
5 Federal custody.

6 “(f) CONTRACT AUTHORITY.—

7 “(1) IN GENERAL.—The Secretary of Homeland
8 Security may enter into contracts or cooperative
9 agreements with appropriate State and local law en-
10 forcement and detention agencies to implement this
11 section.

12 “(2) DETERMINATION BY SECRETARY.—Prior
13 to entering into a contract or cooperative agreement
14 with a State or political subdivision of a State under
15 paragraph (1), the Secretary shall determine wheth-
16 er the State, or if appropriate, the political subdivi-
17 sion in which the agencies are located, has in place
18 any formal or informal policy that violates section
19 642 of the Illegal Immigration Reform and Immig-
20 rant Responsibility Act of 1996 (8 U.S.C. 1373).
21 The Secretary may not allocate any of the funds
22 made available under this section to any State or po-
23 litical subdivision that has in place a policy that vio-
24 lates such section.

1 “(g) PROVISION OF INFORMATION TO NATIONAL
2 CRIME INFORMATION CENTER.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (3), not later than 180 days after the date of
5 the enactment of this Act, the Secretary shall pro-
6 vide to the head of the National Crime Information
7 Center of the Department of Justice the information
8 that the Secretary has or maintains related to any
9 alien—

10 “(A) against whom a final order of re-
11 moval has been issued;

12 “(B) who enters into a voluntary departure
13 agreement, or is granted voluntary departure by
14 an immigration judge, whose period for depart-
15 ure has expired under subsection (a)(3) or
16 (b)(2) of section 240B or who has violated a
17 condition of a voluntary departure agreement
18 under section 240B;

19 “(C) whom a Federal immigration officer
20 has confirmed to be unlawfully present in the
21 United States; and

22 “(D) whose visa has been revoked.

23 “(2) REMOVAL OF INFORMATION.—The head of
24 the National Crime Information Center shall
25 promptly remove any information provided by the

1 Secretary under paragraph (1) related to an alien
2 who is granted lawful authority to enter or remain
3 legally in the United States.

4 “(3) PROCEDURE FOR REMOVAL OF ERRO-
5 NEOUS INFORMATION.—The Secretary, in consulta-
6 tion with the head of the National Crime Informa-
7 tion Center of the Department of Justice, shall de-
8 velop and implement a procedure by which an alien
9 may petition the Secretary or head of the National
10 Crime Information Center, as appropriate, to remove
11 any erroneous information provided by the Secretary
12 under paragraph (1) related to such alien. Under
13 such procedures, failure by the alien to receive notice
14 of a violation of the immigration laws shall not con-
15 stitute cause for removing information provided by
16 the Secretary under paragraph (1) related to such
17 alien, unless such information is erroneous. Notwith-
18 standing the 180-day time period set forth in para-
19 graph (1), the Secretary shall not provide the infor-
20 mation required under paragraph (1) until the pro-
21 cedures required by this paragraph are developed
22 and implemented.”.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated \$850,000,000 for fiscal
25 year 2008 and for each subsequent fiscal year for the de-

1 tention and removal of aliens who are not lawfully present
2 in the United States under the Immigration and Nation-
3 ality Act (8 U.S.C. 1101 et. seq.).

4 (f) DEFINITION OF GOOD MORAL CHARACTER.—Sec-
5 tion 101(f) of the Immigration and Nationality Act (8
6 U.S.C. 1101(f)) is amended—

7 (1) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) an alien described in section 212(a)(3) or
10 237(a)(4), as determined by the Secretary of Home-
11 land Security or Attorney General, based upon any
12 relevant information or evidence, including classified,
13 sensitive, or national security information;”;

14 (2) in paragraph (8), by striking “(as defined
15 in subsection (a)(43))” and inserting the following:
16 “regardless of whether the crime was defined as an
17 aggravated felony under subsection (a)(43) at the
18 time of the conviction, unless—

19 “(A) the person completed the term of im-
20 prisonment and sentence not later than 10
21 years before the date of application; and

22 “(B) the Secretary of Homeland Security
23 or the Attorney General waives the application
24 of this paragraph; or”.

1 (3) in the undesignated matter following para-
2 graph (9), by striking “a finding that for other rea-
3 sons such person is or was not of good moral char-
4 acter.” and inserting “a discretionary finding for
5 other reasons that such a person is or was not of
6 good moral character. In determining an applicant’s
7 moral character, the Secretary of Homeland Security
8 and the Attorney General may take into consider-
9 ation the applicant’s conduct and acts at any time
10 and are not limited to the period during which good
11 moral character is required.”.

12 (g) PENDING PROCEEDINGS.—Section 204(b) of the
13 Immigration and Nationality Act (8 U.S.C. 1154(b)) is
14 amended by adding at the end the following: “A petition
15 may not be approved under this section if there is any
16 administrative or judicial proceeding (whether civil or
17 criminal) pending against the petitioner that could directly
18 or indirectly result in the petitioner’s denaturalization or
19 the loss of the petitioner’s lawful permanent resident sta-
20 tus.”.

21 (h) CONDITIONAL PERMANENT RESIDENT STA-
22 TUS.—

23 (1) IN GENERAL.—Section 216(e) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1186a(e)) is
25 amended by inserting “if the alien has had the con-

1 conditional basis removed pursuant to this section” be-
2 fore the period at the end.

3 (2) CERTAIN ALIEN ENTREPRENEURS.—Section
4 216A(e) of such Act (8 U.S.C. 1186b(e)) is amended
5 by inserting “if the alien has had the conditional
6 basis removed pursuant to this section” before the
7 period at the end.

8 (i) JUDICIAL REVIEW OF NATURALIZATION APPLICA-
9 TIONS.—Section 310(c) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1421(c)) is amended—

11 (1) by inserting “, not later than 120 days after
12 the Secretary of Homeland Security’s final deter-
13 mination,” after “may”; and

14 (2) by adding at the end the following: “In any
15 proceeding, other than a proceeding under section
16 340, the court shall review for substantial evidence
17 the administrative record and findings of the Sec-
18 retary of Homeland Security regarding whether an
19 alien is a person of good moral character, under-
20 stands and is attached to the principles of the Con-
21 stitution of the United States, or is well disposed to
22 the good order and happiness of the United States.
23 The petitioner shall have the burden of showing that
24 the Secretary’s denial of the application was con-
25 trary to law.”.

1 (j) PERSONS ENDANGERING NATIONAL SECURITY.—
2 Section 316 of the Immigration and Nationality Act (8
3 U.S.C. 1427) is amended by adding at the end the fol-
4 lowing:

5 “(g) PERSONS ENDANGERING THE NATIONAL SECU-
6 RITY.—A person may not be naturalized if the Secretary
7 of Homeland Security determines, based upon any rel-
8 evant information or evidence, including classified, sen-
9 sitive, or national security information, that the person
10 was once an alien described in section 212(a)(3) or
11 237(a)(4).”.

12 (k) CONCURRENT NATURALIZATION AND REMOVAL
13 PROCEEDINGS.—Section 318 of the Immigration and Na-
14 tionality Act (8 U.S.C. 1429) is amended by striking “the
15 Attorney General if” and all that follows and inserting
16 “the Secretary of Homeland Security or any court if there
17 is pending against the applicant any removal proceeding
18 or other proceeding to determine the applicant’s inadmis-
19 sibility or deportability, or to determine whether the appli-
20 cant’s lawful permanent resident status should be re-
21 scinded, regardless of when such proceeding was com-
22 menced. The findings of the Attorney General in termi-
23 nating removal proceedings or canceling the removal of an
24 alien under this Act shall not be deemed binding in any
25 way upon the Secretary of Homeland Security with respect

1 to the question of whether such person has established eli-
2 gibility for naturalization in accordance with this title.”.

3 (l) DISTRICT COURT JURISDICTION.—Section 336(b)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1447(b)) is amended to read as follows:

6 “(b) REQUEST FOR HEARING BEFORE DISTRICT
7 COURT.—If there is a failure to render a final administra-
8 tive decision under section 335 before the end of the 180-
9 day period beginning on the date on which the Secretary
10 of Homeland Security completes all examinations and
11 interviews required under such section, the applicant may
12 apply to the district court for the district in which the
13 applicant resides for a hearing on the matter. The Sec-
14 retary shall notify the applicant when such examinations
15 and interviews have been completed. Such district court
16 shall only have jurisdiction to review the basis for delay
17 and remand the matter, with appropriate instructions, to
18 the Secretary for the Secretary’s determination on the ap-
19 plication.”.

20

1 **SEC. ____ . REPORT ON Y NONIMMIGRANT VISAS.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity shall constantly report to Congress on the number of
4 Y nonimmigrant visa holders that do not report at a port
5 of departure and return to their foreign residence, as re-
6 quired under section 218A(j)(3) of the Immigration and
7 Nationality Act, as added by section 402 of this Act.

8 (b) TIMING OF REPORTS.—

9 (1) INITIAL REPORT.—The initial report re-
10 quired under subsection (a) shall be submitted to
11 Congress not later than 26 months after the date on
12 which the Secretary of Homeland Security makes
13 the certification described in section 1(a).

14 (2) SUBSEQUENT REPORTS.—Following the
15 submission of the initial report under paragraph (1),
16 each subsequent report required under subsection
17 (a) shall be submitted to Congress not later than 60
18 days after the end of each calendar year.

19 (c) REQUIRED ACTION.—Based upon the findings in
20 the reports required under subsection (a), the Secretary,
21 for the following calendar year, shall reduce the number
22 of available Y nonimmigrant visas by a number which is
23 equal to the number of Y nonimmigrant visa holders who
24 do not return to their foreign residence, as required under
25 section 218A(j)(3) of the Immigration and Nationality
26 Act, as added by section 402 of this Act.

1 **TITLE — _____ MISCELLANEOUS**

2 **Subtitle A—Other Matters**

3 **SEC. ____ . MEDICAL SERVICES IN UNDERSERVED AREAS.**

4 (a) FEDERAL PHYSICIAN WAIVER PROGRAM.—Sec-
5 tion 214(l) of the Immigration and Nationality Act (8
6 U.S.C. 1184(l)), as amended by section 425(b), is further
7 amended by adding at the end the following:

8 “(5) In administering the Federal physician waiver
9 program authorized under paragraph (1)(C), the Sec-
10 retary of Health and Human Services shall accept applica-
11 tions from—

12 “(A) primary care physicians and physicians
13 practicing specialty medicine; and

14 “(B) hospitals and health care facilities of any
15 type located in an area that the Secretary has des-
16 ignated as having a shortage of physicians, includ-
17 ing—

18 “(i) a Health Professional Shortage Area
19 (as defined in section 332(a)(1) of the Public
20 Health Service Act (42 U.S.C. 254e(a)(1)));

21 “(ii) a Mental Health Professional Short-
22 age Area;

23 “(iii) a Medically Underserved Area (as de-
24 fined in section 330I(a)(4) of the Public Health
25 Service Act (42 U.S.C. 254c-14(a)(4)));

1 “(iv) a Medically Underserved Population
2 (as defined in section 330(b)(3) of the Public
3 Health Service Act (42 U.S.C. 254b(b)(3))); or

4 “(v) a Physician Scarcity Areas (as identi-
5 fied under section 1833(u)(4) of the Social Se-
6 curity Act (42 U.S.C. 13951(u)(4))).

7 “(6) Any employer shall be deemed to have met the
8 requirements under paragraph (1)(D)(iii) if the facility of
9 the employer is located in an area listed in paragraph
10 (5)(B).”.

11 (b) **RETAINING AMERICAN-TRAINED PHYSICIANS IN**
12 **PHYSICIAN SHORTAGE COMMUNITIES.**—Section 201(b)(1)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1151(b)(1)) is amended by adding at the end the fol-
15 lowing:

16 “(F) Alien physicians who have completed serv-
17 ice requirements under section 214(l).”.

18 **SEC. ____ . REPORT ON PROCESSING OF VISA APPLICA-**
19 **TIONS.**

20 Not later than February 1, 2008, and each year
21 thereafter through 2011, the Secretary of State shall sub-
22 mit a report to the Committee on Foreign Relations and
23 the Committee on the Judiciary of the Senate and the
24 Committee on Foreign Affairs and the Committee on the
25 Judiciary of the House of Representatives that includes

1 the following information with respect to each visa-issuing
2 post operated by the Department of State where, during
3 the fiscal year preceding the report, the length of time be-
4 tween the submission of a request for a personal interview
5 for a nonimmigrant visa and the date of the personal
6 interview of the applicant exceeded, on average, 30 days:

7 (1) The number of visa applications submitted
8 in each of the 3 preceding fiscal years, including in-
9 formation regarding each type of visa applied for.

10 (2) The number of visa applications that were
11 approved in each of the 3 preceding fiscal years, in-
12 cluding information regarding the number of each
13 type of visa approved.

14 (3) The number of visa applications in each of
15 the 3 preceding fiscal years that were subject to a
16 Security Advisory Opinion or similar specialized re-
17 view.

18 (4) The average length of time between the sub-
19 mission of a visa application and the personal inter-
20 view of the applicant in each of the 3 preceding fis-
21 cal years, including information regarding the type
22 of visa applied for.

23 (5) The percentage of visa applicants who were
24 refused a visa in each of the 3 preceding fiscal years,

1 including information regarding the type of visa ap-
2 plied for.

3 (6) The number of consular officers processing
4 visa applications in each of the 3 preceding fiscal
5 years.

6 (7) A description of each new procedure or pro-
7 gram designed to improve the processing of visa ap-
8 plications that was implemented in each of the 3
9 preceding fiscal years.

10 (8) A description of construction or improve-
11 ment of facilities for processing visa applications in
12 each of the 3 preceding fiscal years.

13 (9) A description of particular communications
14 initiatives or outreach undertaken to communicate
15 the visa application process to potential or actual
16 visa applicants.

17 (10) An analysis of the facilities, personnel, in-
18 formation systems, and other factors affecting the
19 duration of time between the submission of a visa
20 application and the personal interview of the appli-
21 cant, and the impact of those factors on the quality
22 of the review of the application.

23 (11) Specific recommendations as to any addi-
24 tional facilities, personnel, information systems, or
25 other requirements that would allow the personal

1 interview to occur not more than 30 days following
2 the submission of a visa application.

3 **SEC. ____ . REPEAL OF SPECIAL RULE FOR ALIENS TO PRO-**
4 **VIDE MEDICAL SERVICES.**

5 The amendments made by paragraph (3) of section
6 425(h) are null and void and shall have no effect.

7 **SEC. ____ . TECHNICAL CORRECTION TO QUALIFICATIONS**
8 **FOR CERTAIN IMMIGRANTS.**

9 (a) REPEAL OF TECHNICAL AMENDMENT.—The
10 amendment made by paragraph (6) of subsection (e) of
11 the first section 502 (relating to increasing American com-
12 petitiveness through a merit-based evaluation system for
13 immigrants) is null and void and shall have no effect.

14 (b) REPEAL OF LABOR CERTIFICATION REQUIRE-
15 MENT.—Paragraph (5) of section 212(a) of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1182(a)) is amended—

- 17 (1) by striking subparagraph (A); and
18 (2) by redesignating subparagraphs (B), (C),
19 and (D) as subparagraphs (A), (B), and (C), respec-
20 tively.

21 **SEC. ____ . TECHNICAL CORRECTIONS TO TITLE 18, UNITED**
22 **STATES CODE.**

23 (a) IN GENERAL.—

- 24 (1) REDESIGNATIONS.—Chapter 27 of title 18,
25 United States Code, is amended by redesignating

1 section 554 added by section 551(a) of the Depart-
2 ment of Homeland Security Appropriations Act,
3 2007 (Public Law 109–295; 120 Stat. 1389) (relat-
4 ing to border tunnels and passages) as section 555.

5 (2) TABLE OF SECTIONS.—The table of sections
6 for chapter 27 of title 18, United States Code, is
7 amended by striking the item relating to section
8 554, “Border tunnels and passages”, and inserting
9 the following:

“555. Border tunnels and passages.”.

10 (b) CRIMINAL FORFEITURE.—Section 982(a)(6) of
11 title 18, United States Code, is amended by striking
12 “554” and inserting “555”.

13 (c) DIRECTIVE TO THE UNITED STATES SEN-
14 TENCING COMMISSION.—Section 551(d) of the Depart-
15 ment of Homeland Security Appropriations Act, 2007
16 (Public Law 109–295; 120 Stat. 1390) is amended in
17 paragraphs (1) and (2)(A) by striking “554” and insert-
18 ing “555”.

19 **SEC. ____ . EXPEDITED ADJUDICATION OF EMPLOYER PETI-**
20 **TIONS FOR ATHLETES, ARTISTS, ENTER-**
21 **TAINERS, AND OTHER ALIENS OF EXTRAOR-**
22 **DINARY ABILITY.**

23 Section 214(c) of the Immigration and Nationality
24 Act (8 U.S.C. 1184(c)) is amended—

1 (1) by striking “Attorney General” each place
2 such term appears and inserting “Secretary of
3 Homeland Security”; and

4 (2) in paragraph (6)(D)—

5 (A) by striking “Any person” and inserting
6 the following:

7 “(i) Except as provided in clause (ii), any person”;

8 and

9 (B) by adding at the end the following:

10 “(ii) The Secretary of Homeland Security shall adju-
11 dicate each petition for an alien described in subparagraph
12 (O) or (P) of section 101(a)(15) not later than 30 days
13 after—

14 “(I) the date on which the petitioner submits
15 the petition with a written advisory opinion, letter of
16 no objection, or request for a waiver; or

17 “(II) the date on which the 15-day period de-
18 scribed in clause (i) has expired, if the petitioner has
19 had an appropriate opportunity to supply rebuttal
20 evidence.

21 “(iii) If a petition described in clause (ii) is not adju-
22 dicated before the end of the 30-day period described in
23 clause (ii) and the petitioner is a qualified nonprofit orga-
24 nization or an individual or entity petitioning primarily on
25 behalf of a qualified nonprofit organization, the Secretary

1 shall provide the petitioner with the premium-processing
2 services referred to in section 286(u), without a fee.”.

3 **SEC. ____ . REPORTS ON BACKGROUND AND SECURITY**
4 **CHECKS.**

5 (a) **REPEAL OF REPORT REQUIREMENT.**—The re-
6 quirement set out in subsection (c) of section 216 that
7 the Director of the Federal Bureau of Investigation shall
8 submit the report described in such subsection is null and
9 void and shall have no effect.

10 (b) **REPORTS ON BACKGROUND AND SECURITY**
11 **CHECKS.**—

12 (1) **IN GENERAL.**—Not later than 180 days
13 after the date of the enactment of this Act, the
14 Comptroller General of the United States, in con-
15 junction with the Director of the Federal Bureau of
16 Investigation, shall submit to the appropriate con-
17 gressional committees a report on the background
18 and security checks conducted by the Federal Bu-
19 reau of Investigation.

20 (2) **CONTENT.**—The report submitted under
21 paragraph (1) shall include—

22 (A) a description of the background and
23 security check program;

1 (B) an analysis of resources devoted to the
2 name check program, including personnel and
3 support;

4 (C) a statistical analysis of the background
5 and security check delays associated with dif-
6 ferent types of name check requests, such as
7 those requested by United States Citizenship
8 and Immigration Services or the Office of Per-
9 sonnel Management, including—

10 (i) the number of background checks
11 conducted on behalf of requesting agencies,
12 by agency and type of requests (such as
13 naturalization or adjustment of status);
14 and

15 (ii) the average time spent on each
16 type of background check described under
17 subparagraph (A), including the time from
18 the submission of the request to completion
19 of the check and the time from the initi-
20 ation of check processing to the completion
21 of the check;

22 (D) a description of the obstacles that im-
23 pede the timely completion of such background
24 checks;

1 (E) a discussion of the steps that the Di-
2 rector of the Federal Bureau of Investigation is
3 taking to expedite background and security
4 checks that have been pending for more than
5 60 days; and

6 (F) a plan for the automation of all inves-
7 tigative records related to the name check proc-
8 ess.

9 (3) ANNUAL REPORT ON DELAYED BACK-
10 GROUND CHECKS.—Not later than the end of each
11 fiscal year, the Attorney General shall submit to the
12 appropriate congressional committees a report con-
13 taining, with respect to that fiscal year—

14 (A) a statistical analysis of the number of
15 background checks processed and pending, in-
16 cluding check requests in process at the time of
17 the report and check requests that have been
18 received but are not yet in process;

19 (B) the average time taken to complete
20 each type of background check;

21 (C) a description of efforts made and
22 progress by the Attorney General in addressing
23 any delays in completing such background
24 checks; and

1 (D) a description of the progress that has
2 been made in automating files used in the name
3 check process, including investigative files of
4 the Federal Bureau of Investigation.

5 (4) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this subsection.

8 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
9 FINED.—In this section, the term “appropriate congres-
10 sional committees” means—

11 (1) the Committee on the Judiciary of the Sen-
12 ate;

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

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

17 (4) the Committee on Homeland Security of the
18 House of Representatives.

19 **SEC. ____ . DEPLOYMENT OF TECHNOLOGY TO IMPROVE**
20 **VISA PROCESSING.**

21 Section 222 of the Immigration and Nationality Act
22 (8 U.S.C. 1202) is amended by adding at the end the fol-
23 lowing:

24 “(i) VISA APPLICATION INTERVIEWS.—

1 “(1) VIDEOCONFERENCING.—For purposes of
2 subsection (h), the term ‘in person interview’ in-
3 cludes an interview conducted by videoconference or
4 similar technology after the date on which the Sec-
5 retary of State, in consultation with the Secretary of
6 Homeland Security, certifies to the appropriate com-
7 mittees of Congress that security measures and
8 audit mechanisms have been implemented to ensure
9 that biometrics collected for a visa applicant during
10 an interview using videoconference or similar tech-
11 nology are those of the visa applicant.

12 “(2) MOBILE VISA INTERVIEWS.—The Sec-
13 retary of State is authorized to carry out a pilot pro-
14 gram to conduct visa interviews using mobile teams
15 of consular officials after the date on which the Sec-
16 retary of State, in consultation with Secretary of
17 Homeland Security, certifies to the appropriate com-
18 mittees of Congress that such a pilot program may
19 be carried out without jeopardizing the integrity of
20 the visa interview process or the safety and security
21 of consular officers.

22 “(3) APPROPRIATE COMMITTEES OF CON-
23 GRESS.—In this subsection the term ‘appropriate
24 committees of Congress’ means—

1 “(A) the Committee on Foreign Relations,
2 the Committee on Homeland Security and Gov-
3 ernmental Affairs, and the Committee on the
4 Judiciary of the Senate; and

5 “(B) the Committee on Foreign Affairs,
6 Committee on Homeland Security, and the
7 Committee on the Judiciary of the House of
8 Representatives.”.

9 **SEC. ____ . ADDITIONAL CUSTOMS AND BORDER PROTEC-**
10 **TION OFFICERS FOR HIGH VOLUME PORTS.**

11 Subject to the availability of appropriations, before
12 the end of fiscal year 2008 the Secretary of Homeland
13 Security shall employ not less than an additional 200 Cus-
14 toms and Border Protection officers to address staff short-
15 ages at the 20 United States international airports with
16 the highest number of foreign visitors arriving annually,
17 as determined pursuant to the most recent data collected
18 by the United States Customs and Border Protection
19 available on the date of the enactment of this Act.

20 **SEC. ____ . GOVERNMENT ACCOUNTABILITY OFFICE STUDY**
21 **ON ENGLISH PROFICIENCY.**

22 (a) IN GENERAL.—The Comptroller General of the
23 United States shall conduct a study on—

24 (1) the needs of citizens and lawful permanent
25 residents of the United States whose native language

1 is not English to obtain English language and lit-
2 eracy proficiency;

3 (2) the estimated costs to the public and private
4 sector resulting from those residents of the United
5 States who lack English language proficiency; and

6 (3) the estimated costs of operating English
7 language acquisition programs in the public and pri-
8 vate sector for those residents of the United States
9 who lack English language proficiency.

10 (b) STUDY COMPONENTS.—The study conducted
11 under subsection (a) shall include—

12 (1) an inventory of all existing Federal pro-
13 grams designed to improve English language and lit-
14 eracy acquisition for adult citizens and lawful per-
15 manent residents of the United States, including—

16 (A) a description of the purpose of each
17 such program;

18 (B) a summary of the Federal expendi-
19 tures for each such program during fiscal years
20 2002 through 2006;

21 (C) data on the participation rates of indi-
22 viduals within each such program and those
23 who have expressed an interest in obtaining
24 English instruction but have been unable to
25 participate in existing programs;

1 (D) a summary of evaluations and per-
2 formance reviews of the effectiveness and sus-
3 tainability of each such program; and

4 (E) a description of the coordination of
5 Federal programs with private and nonprofit
6 programs;

7 (2) the identification of model programs at the
8 Federal, State, and local level with demonstrated ef-
9 fectiveness in helping adult citizens and lawful per-
10 manent residents of the United States gain English
11 language and literacy proficiency;

12 (3) a summary of funding for State and local
13 programs that support improving the English lan-
14 guage proficiency and literacy of citizens and lawful
15 permanent residents of the United States;

16 (4) a summary of the costs incurred and bene-
17 fits received by Federal, State, and local govern-
18 ments in serving citizens and lawful permanent resi-
19 dents of the United States who are not proficient in
20 English, including—

21 (A) costs for foreign language translators;

22 (B) the production of documents in mul-
23 tiple languages; and

24 (C) compliance with Executive Order
25 13166;

1 (5) an analysis of the costs incurred by busi-
2 nesses that employ citizens and lawful permanent
3 residents of the United States who are not proficient
4 in English, including—

5 (A) costs for English training and foreign
6 language translation;

7 (B) an estimate of lost productivity; and

8 (C) costs for providing English training to
9 employees;

10 (6) the number of lawful permanent residents
11 who are eligible to naturalize as citizens of the
12 United States; and

13 (7) recommendations regarding the most cost-
14 effective actions the Federal government could take
15 to assist citizens and lawful permanent residents of
16 the United States to quickly learn English.

17 (c) REPORT.—Not later than 1 year after the date
18 of the enactment of this Act, the Comptroller General of
19 the United States shall submit a report containing the
20 findings from the study conducted under this section to—

21 (1) the Committee on Health, Education,
22 Labor, and Pensions of the Senate;

23 (2) the Committee on the Judiciary of the Sen-
24 ate;

1 (3) the Committee on Education and Labor of
2 the House of Representatives; and

3 (4) the Committee on the Judiciary of the
4 House of Representatives.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as may be
7 necessary for fiscal years 2008 and 2009 to carry out this
8 section.

9 **SEC. ____ . REPEAL OF ENGLISH LEARNING PROGRAM.**

10 The requirements of section 711 are null and void
11 and such section shall have no effect.

12 **SEC. ____ . REPEAL OF AUTHORIZATION OF ADDITIONAL**
13 **PORTS OF ENTRY.**

14 The requirements of the first section 104 (relating
15 to ports entry) are null and void and such section shall
16 have no effect.

17 **SEC. ____ . LIMITATION ON SECURE COMMUNICATION RE-**
18 **QUIREMENT.**

19 Notwithstanding section 123, the Secretary may de-
20 velop and implement the plan described in such section
21 only subject to the availability of appropriations for such
22 purpose.

23 **SEC. ____ . DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.**

24 Notwithstanding clause (ii) of subsection (e)(6)(E) of
25 the first section 601 (included in title IV relating to non-

1 immigrants in the United States previously in unlawful
2 status), the fees collected under subparagraph (C) of sub-
3 section (e)(6) of such section 601 shall be deposited in
4 the State Impact Assistance Account established under
5 the first subsection (x) (relating to the State Impact As-
6 sistance Account) of section 286 of the Immigration and
7 Nationality Act, as added by subsection (b) of the first
8 section 402 (relating to admission of nonimmigrant work-
9 ers), and used for the purposes described in such section
10 286(x).

11 **SEC. ____ . ADDITIONAL REQUIREMENTS FOR THE BORDER**
12 **PATROL TRAINING CAPACITY REVIEW.**

13 (a) **ADDITIONAL COMPONENT OF REVIEW.**—The re-
14 view conducted under subsection (a) of section 128 shall
15 include an evaluation of the positive and negative impacts
16 of privatizing border patrol training, including an evalua-
17 tion of the impact of privatization on the quality, morale,
18 and consistency of border patrol agents.

19 (b) **CONSIDERATIONS.**—In conducting the review
20 under subsection (a) of section 128, the Comptroller Gen-
21 eral of the United States shall consider—

22 (1) the report by the Government Account-
23 ability Office entitled “Homeland Security: Informa-
24 tion on Training New Border Patrol Agents” and
25 dated March 30, 2007;

1 (2) the ability of Federal providers of border
2 patrol training, as compared to private providers of
3 similar training, to incorporate time-sensitive
4 changes based on the needs of an agency or changes
5 in the law;

6 (3) the ability of a Federal agency, as compared
7 to a private entity, to defend the Federal agency or
8 private entity, as applicable, from lawsuits involving
9 the nature, quality, and consistency of law enforce-
10 ment training; and

11 (4) whether any other Federal training would
12 be more appropriate and cost efficient for privatiza-
13 tion than basic border patrol training.

14 (c) CONSULTATION.—In conducting the review under
15 subsection (a) of section 128, the Comptroller General of
16 the United States shall consult with—

17 (1) the Secretary of Homeland Security;

18 (2) the Commissioner of the Bureau of Customs
19 and Border Protection; and

20 (3) the Director of the Federal Law Enforce-
21 ment Training Center.

22 **SEC. ____ . Y-2B VISA ALLOCATION BETWEEN THE FIRST**
23 **AND SECOND HALVES OF EACH FISCAL YEAR.**

24 (a) NUMERICAL LIMITATIONS.—Section 214(g)(1) of
25 the Immigration and Nationality Act (8 U.S.C. 1184(g)),

1 as amended by section 409(1), is further amended in sub-
2 paragraph (D) by striking “101(a)(15)(Y)(ii)(II)” and in-
3 serting “101(a)(15)(Y)(ii)”.

4 (b) TECHNICAL CORRECTION.—

5 (1) REPEAL.—The amendment made by para-
6 graph (3) of section 409 shall be null and void and
7 shall have no effect.

8 (2) CORRECTION.—Paragraph (10)(A) of sec-
9 tion 214(g) of the Immigration and Nationality Act
10 (8 U.S.C. 1184(g)), as redesignated by paragraph
11 (2) of section 409, is amended by striking “an alien
12 who has already been counted toward the numerical
13 limitation of paragraph (1)(B) during fiscal year
14 2004, 2005, or 2006 shall not again be counted to-
15 ward such limitation during fiscal year 2007.” and
16 inserting “an alien who has been present in the
17 United States as an H-2B nonimmigrant during
18 any 1 of 3 fiscal years immediately preceding the fis-
19 cal year of the approved start date of a petition for
20 a nonimmigrant worker described in section
21 101(a)(15)(H)(ii)(b) shall not be counted toward
22 such limitation for the fiscal year in which the peti-
23 tion is approved. Such alien shall be considered a re-
24 turning worker.”.

1 (c) ALLOCATION.—Paragraph (11) of section 214(g)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1184(g)), as redesignated by section 409(2), is amended—

4 (1) by inserting “(A)” before “The”; and

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

6 “(B) The numerical limitations under paragraph
7 (1)(D) shall be allocated for each fiscal year to ensure that
8 the total number of aliens subject to such numerical limits
9 who enter the United States pursuant to a visa or are ac-
10 corded nonimmigrant status under section
11 101(a)(15)(Y)(ii) during the first 6 months of such fiscal
12 year is not greater than 50 percent of the total number
13 of such visas available for that fiscal year.”.

14 **SEC. ____ . H-2A STATUS FOR FISH ROE PROCESSORS AND**
15 **TECHNICIANS.**

16 Section 101(a)(15)(H)(ii)(a) of the Immigration and
17 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is
18 amended by inserting “for employment as a fish roe proc-
19 essor or fish roe technician or” before “to perform agricul-
20 tural labor or services”.

21 **SEC. ____ . AUTHORITY FOR ALIENS WITH PROBATIONARY Z**
22 **NONIMMIGRANT STATUS TO SERVE IN THE**
23 **ARMED FORCES.**

24 An alien who files an application for Z nonimmigrant
25 status shall under the first section 601 (included in title

1 IV relating to nonimmigrants in the United States pre-
2 viously in unlawful status), upon submission of any evi-
3 dence required under paragraphs (f) and (g) of such sec-
4 tion 601 and after the Secretary of Homeland Security
5 has conducted appropriate background checks, to include
6 name and fingerprint checks, that have not by the end
7 of the next business day produced information rendering
8 the applicant ineligible shall be eligible to serve as a mem-
9 ber of the Armed Forces of the United States.

10 **SEC. ____ . CONSULTATION WITH CONGRESS.**

11 Notwithstanding subsection (a) of the first section 1
12 (relating to effective date triggers), the certification by the
13 Secretary of Homeland Security under such subsection (a)
14 shall be prepared in consultation with the Comptroller
15 General, the Committee on the Judiciary and the Com-
16 mittee on Homeland Security and Governmental Affairs
17 of the Senate, and the Committee on the Judiciary and
18 the Committee on Homeland Security of the House of
19 Representatives.

20 **SEC. ____ . ESTABLISHMENT OF A CITIZENSHIP AND IMMI-**
21 **GRATION SERVICES OFFICE IN FAIRBANKS,**
22 **ALASKA.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-
24 rity, acting through the Director for United States Citi-
25 zenship and Immigration Services, shall establish an office

1 under the jurisdiction of the Director in Fairbanks, Alas-
2 ka, to provide citizenship and immigration services.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for each fiscal year such
5 sums as may be necessary to carry out this section.

6 **SEC. ____ . PILOT PROGRAM RELATED MEDICAL SERVICES**
7 **IN UNDERSERVED AREAS.**

8 Clause (iii) of section 214(l)(4)(C) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1184(l)), as amended
10 by section 425(b)(1), is amended by striking subclause (I)
11 and inserting the following:

12 “(I) with respect to a State, for the
13 first fiscal year of the pilot program con-
14 ducted under this paragraph, the greater
15 of—

16 “(aa) 15; or

17 “(bb) the number of the waivers
18 received by the State in the previous
19 fiscal year;”.

20 **SEC. ____ . ESTABLISHMENT OF AN ADDITIONAL UNITED**
21 **STATES ATTORNEY OFFICE AND AN ADDI-**
22 **TIONAL IMMIGRATION AND CUSTOMS EN-**
23 **FORCEMENT OFFICE.**

24 (a) ESTABLISHMENT OF A SATELLITE UNITED
25 STATES ATTORNEY OFFICE IN ST. GEORGE, UTAH.—The

1 Attorney General, acting through the United States Attor-
2 ney for the District of Utah, shall establish a satellite of-
3 fice under the jurisdiction of the United States Attorney
4 for the District of Utah in St. George, Utah. The primary
5 function of the satellite office shall be to prosecute and
6 deter criminal activities associated with illegal immigrants.

7 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT OF-
8 FICE.—

9 (1) ESTABLISHMENT.—The Secretary of Home-
10 land Security, acting through the Assistant Sec-
11 retary of Homeland Security for United States Im-
12 migration and Customs Enforcement, shall establish
13 an office under the jurisdiction of the Assistant Sec-
14 retary within the vicinity of the intersection U.S.
15 Highway 191 and U.S. Highway 491 to reduce the
16 flow of illegal immigrants into the interior of the
17 United States.

18 (2) STAFFING.—The office established under
19 paragraph (1) shall be staffed by 5 full-time employ-
20 ees, of whom—

21 (A) 3 shall work for the Office of Inves-
22 tigation; and

23 (B) 2 shall work for the Office of Deten-
24 tion and Removal Operations.

1 (3) OTHER RESOURCES.—The Assistant Sec-
2 retary shall provide the office established under
3 paragraph (1) with the resources necessary to ac-
4 complish the purposes of this subsection, including
5 office space, detention beds, and vehicles.

6 (4) AUTHORIZATION OF APPROPRIATIONS.—
7 There are authorized to be appropriated to carry out
8 this subsection—

9 (A) \$1,100,000 for fiscal year 2008; and

10 (B) such sums as may be necessary for
11 each of the fiscal years 2009 through 2012.

12 **SEC. ____ . INTERNATIONAL REGISTERED TRAVELER PRO-**
13 **GRAM.**

14 Section 7208(k)(3) of the Intelligence Reform and
15 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3))
16 is amended to read as follows:

17 “(3) INTERNATIONAL REGISTERED TRAVELER
18 PROGRAM.—

19 “(A) IN GENERAL.—The Secretary of
20 Homeland Security shall establish an inter-
21 national registered traveler program that incor-
22 porates available technologies, such as bio-
23 metrics and e-passports, and security threat as-
24 sessments to expedite the screening and proc-
25 essing of international travelers, including

1 United States Citizens and residents, who enter
2 and exit the United States. The program shall
3 be coordinated with the US-VISIT program,
4 other pre-screening initiatives, and the Visa
5 Waiver Program within the Department of
6 Homeland Security.

7 “(B) FEES.—The Secretary may impose a
8 fee for the program established under subpara-
9 graph (A) and may modify such fee from time
10 to time. The fee may not exceed the aggregate
11 costs associated with the program and shall be
12 credited to the Department of Homeland Secu-
13 rity for purposes of carrying out the inter-
14 national registered traveler program. Amounts
15 so credited shall remain available until ex-
16 pended.

17 “(C) RULEMAKING.—Within 365 days
18 after the date of enactment of the Secure Bor-
19 ders, Economic Opportunity and Immigration
20 Reform Act of 2007, the Secretary shall initiate
21 a rulemaking to establish the program, criteria
22 for participation, and the fee for the program.

23 “(D) IMPLEMENTATION.—Not later than 1
24 year after the date of enactment of the Secure
25 Borders, Economic Opportunity and Immigra-

1 tion Reform Act of 2007, the Secretary shall
2 establish a phased-implementation of a biomet-
3 ric-based international registered traveler pro-
4 gram in conjunction with the US-VISIT entry
5 and exit system, other pre-screening initiatives,
6 and the Visa Waiver Program within the De-
7 partment of Homeland Security at United
8 States airports with the highest volume of inter-
9 national travelers.

10 “(E) PARTICIPATION.—The Secretary shall
11 ensure that the international registered traveler
12 program includes as many participants as prac-
13 ticable by—

14 “(i) establishing a reasonable cost of
15 enrollment;

16 “(ii) making program enrollment con-
17 venient and easily accessible; and

18 “(iii) providing applicants with clear
19 and consistent eligibility guidelines.”.

20 **SEC. ____ . WORKING CONDITIONS FOR Y NONIMMIGRANTS.**

21 Paragraph (1) of subsection (c) of section 218B of
22 the Immigration and Nationality Act, as added by section
23 403, is amended—

1 (1) by redesignating subparagraphs (D)
2 through (L) as subparagraphs (E) through (M), re-
3 spectively; and

4 (2) by inserting after subparagraph (C), the fol-
5 lowing:

6 “(D) WORKING CONDITIONS.—Y non-
7 immigrants will be provided the same working
8 conditions and benefits as similarly employed
9 United States workers.”.

10 **SEC. ____ . MATTERS RELATED TO TRIBES.**

11 (a) BORDER SECURITY ON CERTAIN FEDERAL
12 LANDS.—

13 (1) REPEAL OF REQUIREMENTS.—Subpara-
14 graph (B) of section 122(b)(1) shall be null and void
15 and have no effect.

16 (2) TRAINING REQUIREMENTS.—In addition to
17 the requirements of subparagraphs (A) and (C) of
18 section 122(b), to gain operational control over the
19 international land borders of the United States and
20 to prevent the entry of terrorists, unlawful aliens,
21 narcotics, and other contraband into the United
22 States, the Secretary, in cooperation with the Sec-
23 retary concerned (as that term is defined in section
24 122(a), shall provide Federal land resource, sacred
25 sites, and Native American Graves Protection and

1 Repatriation Act (25 U.S.C. 3001 et seq.) (com-
2 monly referred to as NAGPRA) training for U.S.
3 Customs and Border Protection agents dedicated to
4 protected land (as that term is defined in section
5 122(a)).

6 (b) BORDER RELIEF GRANT PROGRAM.—

7 (1) REPEAL OF DEFINITION.—Paragraph (2) of
8 subsection (d) of section 132 shall be null and void
9 and have no effect.

10 (2) HIGH IMPACT AREA DEFINED.—For the
11 purposes of section 132, the term “High Impact
12 Area” means any county or Indian reservation des-
13 ignated by the Secretary as such, taking into consid-
14 eration—

15 (A) whether local law enforcement agencies
16 in that county have the resources to protect the
17 lives, property, safety, or welfare of the resi-
18 dents of that county;

19 (B) the relationship between any lack of
20 security along the United State border and the
21 rise, if any, of criminal activity in that county
22 or Indian reservation; and

23 (C) any other unique challenges that local
24 law enforcement face due to a lack of security
25 along the United States border.

1 (c) NATIONAL LAND BORDER SECURITY PLAN.—
2 Notwithstanding subsection (a) of section 134, the Sec-
3 retary of Homeland Security shall consult with representa-
4 tives of Tribal law enforcement prior to submitting to Con-
5 gress the National Land Border Security Plan required
6 by such subsection.

7 (d) REDUCING ILLEGAL IMMIGRATION AND ALIEN
8 SMUGGLING ON TRIBAL LANDS.—Notwithstanding para-
9 graph (2) of subsection (c) of section 219, the report re-
10 quired by such subsection shall not include the material
11 described in such paragraph.

12 **SEC. ____ . EB-5 REGIONAL CENTER PROGRAM.**

13 Paragraph (3) of section 201(b) of the Immigration
14 and Nationality Act (8 U.S.C. 1153(b)), as redesignated
15 and amended by section 502(b)(3) of this Act, is further
16 amended—

17 (1) by striking “2,800” and inserting “10,000”;

18 and

19 (2) by striking “1,500” and inserting “7,500”.

1 **Subtitle B—Commission on War-**
2 **time Relocation and Internment**
3 **of Latin Americans of Japanese**
4 **Descent**

5 **SEC. ___ 1. SHORT TITLE.**

6 This subtitle may be cited as the “Commission on
7 Wartime Relocation and Internment of Latin Americans
8 of Japanese Descent Act”.

9 **SEC. ___ 2. PURPOSE.**

10 The purpose of this subtitle is to establish a fact-find-
11 ing Commission to extend the study of the Commission
12 on Wartime Relocation and Internment of Civilians to in-
13 vestigate and determine facts and circumstances sur-
14 rounding the relocation, internment, and deportation to
15 Axis countries of Latin Americans of Japanese descent
16 from December 1941 through February 1948, and the im-
17 pact of those actions by the United States, and to rec-
18 ommend appropriate remedies, if any, based on prelimi-
19 nary findings by the original Commission and new discov-
20 eries.

21 **SEC. ___ 3. ESTABLISHMENT OF THE COMMISSION.**

22 (a) **IN GENERAL.**—There is established the Commis-
23 sion on Wartime Relocation and Internment of Latin
24 Americans of Japanese descent (referred to in this subtitle
25 as the “Commission”).

1 (b) COMPOSITION.—The Commission shall be com-
2 posed of 9 members, who shall be appointed not later than
3 60 days after the date of enactment of this Act, of
4 whom—

5 (1) 3 members shall be appointed by the Presi-
6 dent;

7 (2) 3 members shall be appointed by the Speak-
8 er of the House of Representatives, on the joint rec-
9 ommendation of the majority leader of the House of
10 Representatives and the minority leader of the
11 House of Representatives; and

12 (3) 3 members shall be appointed by the Presi-
13 dent pro tempore of the Senate, on the joint rec-
14 ommendation of the majority leader of the Senate
15 and the minority leader of the Senate.

16 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
17 bers shall be appointed for the life of the Commission. A
18 vacancy in the Commission shall not affect its powers, but
19 shall be filled in the same manner as the original appoint-
20 ment was made.

21 (d) MEETINGS.—

22 (1) FIRST MEETING.—The President shall call
23 the first meeting of the Commission not later than
24 the latter of—

1 (A) 60 days after the date of enactment of
2 this Act; or

3 (B) 30 days after the date of enactment of
4 legislation making appropriations to carry out
5 this subtitle.

6 (2) SUBSEQUENT MEETINGS.—Except as pro-
7 vided in paragraph (1), the Commission shall meet
8 at the call of the Chairperson.

9 (e) QUORUM.—Five members of the Commission
10 shall constitute a quorum, but a lesser number of members
11 may hold hearings.

12 (f) CHAIRPERSON AND VICE CHAIRPERSON.—The
13 Commission shall elect a Chairperson and Vice Chair-
14 person from among its members. The Chairperson and
15 Vice Chairperson shall serve for the life of the Commis-
16 sion.

17 **SEC. 4. DUTIES OF THE COMMISSION.**

18 (a) IN GENERAL.—The Commission shall—

19 (1) extend the study of the Commission on
20 Wartime Relocation and Internment of Civilians, es-
21 tablished by the Commission on Wartime Relocation
22 and Internment of Civilians Act—

23 (A) to investigate and determine facts and
24 circumstances surrounding the United States'
25 relocation, internment, and deportation to Axis

1 countries of Latin Americans of Japanese de-
2 scent from December 1941 through February
3 1948, and the impact of those actions by the
4 United States; and

5 (B) in investigating those facts and cir-
6 cumstances, to review directives of the United
7 States armed forces and the Department of
8 State requiring the relocation, detention in in-
9 ternment camps, and deportation to Axis coun-
10 tries of Latin Americans of Japanese descent;
11 and

12 (2) recommend appropriate remedies, if any,
13 based on preliminary findings by the original Com-
14 mission and new discoveries.

15 (b) REPORT.—Not later than 1 year after the date
16 of the first meeting of the Commission pursuant to section
17 ____ 3(d)(1), the Commission shall submit a written report
18 to Congress, which shall contain findings resulting from
19 the investigation conducted under subsection (a)(1) and
20 recommendations described in subsection (a)(2).

21 **SEC. ____ 5. POWERS OF THE COMMISSION.**

22 (a) HEARINGS.—The Commission or, at its direction,
23 any subcommittee or member of the Commission, may, for
24 the purpose of carrying out this subtitle—

1 (1) hold such public hearings in such cities and
2 countries, sit and act at such times and places, take
3 such testimony, receive such evidence, and admin-
4 ister such oaths as the Commission or such sub-
5 committee or member considers advisable; and

6 (2) require, by subpoena or otherwise, the at-
7 tendance and testimony of such witnesses and the
8 production of such books, records, correspondence,
9 memoranda, papers, documents, tapes, and materials
10 as the Commission or such subcommittee or member
11 considers advisable.

12 (b) ISSUANCE AND ENFORCEMENT OF SUB-
13 POENAS.—

14 (1) ISSUANCE.—Subpoenas issued under sub-
15 section (a) shall bear the signature of the Chair-
16 person of the Commission and shall be served by any
17 person or class of persons designated by the Chair-
18 person for that purpose.

19 (2) ENFORCEMENT.—In the case of contumacy
20 or failure to obey a subpoena issued under sub-
21 section (a), the United States district court for the
22 judicial district in which the subpoenaed person re-
23 sides, is served, or may be found, may issue an order
24 requiring such person to appear at any designated
25 place to testify or to produce documentary or other

1 evidence. Any failure to obey the order of the court
2 may be punished by the court as a contempt of that
3 court.

4 (c) WITNESS ALLOWANCES AND FEES.—Section
5 1821 of title 28, United States Code, shall apply to wit-
6 nesses requested or subpoenaed to appear at any hearing
7 of the Commission. The per diem and mileage allowances
8 for witnesses shall be paid from funds available to pay the
9 expenses of the Commission.

10 (d) INFORMATION FROM FEDERAL AGENCIES.—The
11 Commission may secure directly from any Federal depart-
12 ment or agency such information as the Commission con-
13 sidered necessary to perform its duties. Upon request of
14 the Chairperson of the Commission, the head of such de-
15 partment or agency shall furnish such information to the
16 Commission.

17 (e) POSTAL SERVICES.—The Commission may use
18 the United States mails in the same manner and under
19 the same conditions as other departments and agencies of
20 the Federal Government.

21 **SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVI-**
22 **SIONS.**

23 (a) COMPENSATION OF MEMBERS.—Each member of
24 the Commission who is not an officer or employee of the
25 Federal Government shall be compensated at a rate equal

1 to the daily equivalent of the annual rate of basic pay pre-
2 scribed for level IV of the Executive Schedule under sec-
3 tion 5315 of title 5, United States Code, for each day (in-
4 cluding travel time) during which such member is engaged
5 in the performance of the duties of the Commission. All
6 members of the Commission who are officers or employees
7 of the United States shall serve without compensation in
8 addition to that received for their services as officers or
9 employees of the United States.

10 (b) TRAVEL EXPENSES.—The members of the Com-
11 mission shall be allowed travel expenses, including per
12 diem in lieu of subsistence, at rates authorized for employ-
13 ees of agencies under subchapter I of chapter 57 of title
14 5, United States Code, while away from their homes or
15 regular places of business in the performance of services
16 for the Commission.

17 (c) STAFF.—

18 (1) IN GENERAL.—The Chairperson of the
19 Commission may, without regard to the civil service
20 laws and regulations, appoint and terminate the em-
21 ployment of such personnel as may be necessary to
22 enable the Commission to perform its duties.

23 (2) COMPENSATION.—The Chairperson of the
24 Commission may fix the compensation of the per-
25 sonnel without regard to chapter 51 and subchapter

1 III of chapter 53 of title 5, United States Code, re-
2 lating to classification of positions and General
3 Schedule pay rates, except that the rate of pay for
4 the personnel may not exceed the rate payable for
5 level V of the Executive Schedule under section 5316
6 of such title.

7 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
8 Federal Government employee may be detailed to the
9 Commission without reimbursement, and such detail shall
10 be without interruption or loss of civil service status or
11 privilege.

12 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
13 TENT SERVICES.—The Chairperson of the Commission
14 may procure temporary and intermittent services under
15 section 3109(b) of title 5, United States Code, at rates
16 for individuals that do not exceed the daily equivalent of
17 the annual rate of basic pay prescribed for level V of the
18 Executive Schedule under section 5316 of such title.

19 (f) OTHER ADMINISTRATIVE MATTERS.—The Com-
20 mission may—

21 (1) enter into agreements with the Adminis-
22 trator of General Services to procure necessary fi-
23 nancial and administrative services;

24 (2) enter into contracts to procure supplies,
25 services, and property; and

1 (3) enter into contracts with Federal, State, or
2 local agencies, or private institutions or organiza-
3 tions, for the conduct of research or surveys, the
4 preparation of reports, and other activities necessary
5 to enable the Commission to perform its duties.

6 **SEC. ___ 7. TERMINATION.**

7 The Commission shall terminate 90 days after the
8 date on which the Commission submits its report to Con-
9 gress under section ___ 4(b).

10 **SEC. ___ 8. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) IN GENERAL.—There are authorized to be appro-
12 priated such sums as may be necessary to carry out this
13 subtitle.

14 (b) AVAILABILITY.—Any sums appropriated under
15 the authorization contained in this section shall remain
16 available, without fiscal year limitation, until expended.

17 **Subtitle C—Amendments Related**
18 **to the AgJOBS Act of 2007**

19 **SEC. ___ 1. EVIDENCE OF IDENTITY AND WORK AUTHORIZA-**
20 **TION.**

21 Clause (iii) of section 274A(c)(1)(B) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1324a(c)(1)(B)), as
23 amended by section 302, is further amended inserting “or
24 Z-A visa.” at the end.

1 **SEC. ____ 2. TECHNICAL CORRECTION.**

2 Paragraph (1) of section 218C(c) of the Immigration
3 and Nationality Act, as added by section 404, is amended
4 by striking “218E, 218F, and 218G” and inserting
5 “218D and 218E”.

6 **SEC. ____ 3. H-2A EMPLOYMENT REQUIREMENTS.**

7 (a) **TECHNICAL CORRECTION TO REQUIREMENTS**
8 **FOR MINIMUM BENEFITS, WAGES, AND WORKING CONDI-**
9 **TIONS.**—Subsection (b) of section 218D of the Immigra-
10 tion and Nationality Act, as added by section 404, is
11 amended in the matter preceding paragraph (1) by strik-
12 ing “218C(b)(2)” and inserting “218C(a)”.

13 (b) **LIMITATION ON REQUIRED WAGES.**—Paragraph
14 (3) of such section 218D(b) is further amended by striking
15 subparagraph (B) and inserting the following:

16 “(B) **LIMITATION.**—Effective on the date
17 of the enactment of section 404 of the Secure
18 Borders, Economic Opportunity and Immigra-
19 tion Reform Act of 2007 and continuing for 3
20 years thereafter, no adverse effect wage rate for
21 a State may be more than the adverse effect
22 wage rate for that State in effect on January
23 1, 2003, as established by section 655.107 of
24 title 20, Code of Federal Regulations.”.

25 (c) **RANGE PRODUCTION OF LIVESTOCK.**—Section
26 218D of the Immigration and Nationality Act, as added

1 by section 404, is amended by striking subsection (e) and
2 inserting the following:

3 “(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing
4 in this section, section 218C, or section 218E shall pre-
5 clude the Secretary of Labor and the Secretary from con-
6 tinuing to apply special procedures and requirements to
7 the admission and employment of aliens in occupations in-
8 volving the range production of livestock.”.

9 (d) EVIDENCE OF NONIMMIGRANT STATUS.—Such
10 section 218D is further amended by striking subsection
11 (f).

12 **SEC. ___ 4. PROCEDURE FOR ADMISSION AND EXTENSION**
13 **OF STAY OF H-2A WORKERS.**

14 (a) IDENTIFICATION DOCUMENT.—Paragraph (2) of
15 subsection (g) of section 218E of the Immigration and Na-
16 tionality Act, as added by section 404, is amended by
17 striking subparagraphs (B) and (C) and inserting the fol-
18 lowing:

19 “(B) The document shall be machine-read-
20 able, tamper-resistant, and shall contain a
21 digitized photograph and other biometric identi-
22 fiers that can be authenticated.

23 “(C) The document shall—

24 “(i) be compatible with other data-
25 bases of the Secretary for the purpose of

1 excluding aliens from benefits for which
2 they are not eligible and determining
3 whether the alien is unlawfully present in
4 the United States;

5 “(ii) be compatible with law enforce-
6 ment databases to determine if the alien
7 has been convicted of criminal offenses;

8 “(iii) shall, during the alien’s author-
9 ized period of admission as an H-2A non-
10 immigrant, serve as a valid entry document
11 for the purpose of applying for admission
12 to the United States—

13 “(I) instead of a passport and
14 visa if the alien—

15 “(aa) is a national of a for-
16 eign territory contiguous to the
17 United States; and

18 “(bb) is applying for admis-
19 sion at a land border port of
20 entry; or

21 “(II) in conjunction with a valid
22 passport, if the alien is applying for
23 admission at an air or sea port of
24 entry;

1 “(iv) may be accepted during the pe-
2 riod of its validity by an employer as evi-
3 dence of employment authorization and
4 identity under section 274A(b)(1)(B); and

5 “(v) shall be issued to the H-2A non-
6 immigrant by the Secretary promptly after
7 such alien’s admission to the United States
8 as an H-2A nonimmigrant and reporting
9 to the employer’s worksite under or, at the
10 discretion of the Secretary, may be issued
11 by the Secretary of State at a consulate in-
12 stead of a visa.”.

13 (b) SPECIAL RULES.—Such section 218E is further
14 amended by striking subsection (i) and inserting the fol-
15 lowing:

16 “(i) SPECIAL RULE FOR ALIENS EMPLOYED AS
17 SHEEPHERDER OR GOAT HERDERS.—Notwithstanding
18 any other provision of this Act, an alien admitted under
19 section 101(a)(15)(H)(ii)(a) for employment as a sheep-
20 herder or goat herder—

21 “(1) may be admitted for a period of up to 3
22 years;

23 “(2) shall be subject to readmission; and

24 “(3) shall not be subject to the requirements of
25 subsection (h)(4).”.

1 “(j) SPECIAL RULES FOR ALIENS EMPLOYED AS
2 DAIRY WORKERS.—Notwithstanding any other provision
3 of this Act, an alien admitted under section
4 101(a)(15)(H)(ii)(a) for employment as a dairy worker—

5 “(1) may be admitted for a period of up to 3
6 years;

7 “(2) may not be extended beyond 3 years;

8 “(3) shall not be subject to the requirements of
9 subsection (h)(4)(A); and

10 “(4) shall not after such 3 year period has ex-
11 pired be readmitted to the United States as an H-
12 2A or Y-1 worker.”.

13 **SEC. ___ 5. WORKER PROTECTIONS AND LABOR STAND-**
14 **ARDS ENFORCEMENT.**

15 Paragraph (7) of section 218F(c) of the Immigration
16 and Nationality Act, as added by section 404, is amended
17 by striking subparagraph (C).

18 **SEC. ___ 6. DEFINITIONS.**

19 (a) SEASONAL.—Section 218G of the Immigration
20 and Nationality Act, as added by section 404, is amended
21 by striking paragraph (11) and inserting the following:

22 “(11) SEASONAL.—

23 “(A) IN GENERAL.—The term ‘seasonal’,
24 with respect to the performance of labor, means
25 that the labor—

1 “(i) ordinarily pertains to or is of the
2 kind exclusively performed at certain sea-
3 sons or periods of the year; and

4 “(ii) because of the nature of the
5 labor, cannot be continuous or carried on
6 throughout the year.

7 “(B) EXCEPTION.—Labor performed on a
8 dairy farm or on a horse farm shall be consid-
9 ered to be seasonal labor.”

10 (b) CONFORMING AMENDMENT.—Section
11 101(a)(15)(H)(ii)(a) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), as amended by sub-
13 section (c) of section 404, is further amended, by striking
14 “dairy farm,” and inserting “dairy farm or horse farm,”.

15 **SEC. 7. ADMISSION OF AGRICULTURAL WORKERS.**

16 (a) LIMITATION ON ACCESS TO INFORMATION.—Sub-
17 section (d) of section 214A of the Immigration and Na-
18 tionality Act, as added by section 622(b), is amended by
19 striking paragraph (6), and insert the following:

20 “(6) LIMITATION ON ACCESS TO INFORMA-
21 TION.—Files and records collected or compiled by a
22 qualified designated entity for the purposes of this
23 section are confidential and the Secretary shall not
24 have access to such a file or record relating to an
25 alien without the consent of the alien, except as al-

1 lowed by a court order issued pursuant to section
2 604.”.

3 (b) TERMS OF EMPLOYMENT.—Subsection (h)(3)(b)
4 of such section 214A is amended by striking clause (iv)
5 and inserting the following:

6 “(iv) EFFECT OF ARBITRATION FIND-
7 INGS.—If the Secretary receives a finding
8 of an arbitrator that an employer has ter-
9 minated the employment of an alien who is
10 granted a Z–A visa without just cause, the
11 Secretary shall credit the alien for the
12 number of days of work not performed
13 during such period of termination for the
14 purpose of determining if the alien meets
15 the qualifying employment requirement of
16 subsection (j)(1)(A).”.

17 (c) RECORD OF EMPLOYMENT.—Subsection (h)(4) of
18 such section 214A is amended by striking subparagraph
19 (B) and inserting the following:

20 “(B) CIVIL PENALTIES.—

21 “(i) IN GENERAL.—If the Secretary
22 finds, after notice and opportunity for a
23 hearing, that an employer of an alien
24 granted Z–A nonimmigrant status has
25 failed to provide the record of employment

1 required under subparagraph (A) or has
2 provided a false statement of material fact
3 in such a record, the employer shall be
4 subject to a civil money penalty in an
5 amount not to exceed \$1,000 per violation.

6 “(ii) LIMITATION.—The penalty appli-
7 cable under clause (i) for failure to provide
8 records shall not apply unless the alien has
9 provided the employer with evidence of em-
10 ployment authorization granted under this
11 subsection.

12 “(iii) REPORTING REQUIREMENT.—
13 The Secretary shall promulgate regulations
14 requiring an alien granted Z–A non-
15 immigrant status to file a report by the
16 conclusion of the 4-year period beginning
17 on the date of enactment showing that the
18 alien is making satisfactory progress to-
19 ward complying with the requirements of
20 subsection (j)(1)(A).”.

21 (d) TERMINATION OF A GRANT OF Z–A VISA.—Sub-
22 section (i) of such section 214A is amended by striking
23 paragraph (3).

24 (e) ADJUSTMENT TO PERMANENT RESIDENCE.—
25 Paragraph (1) of subsection (j) of such section 214A is

1 amended by striking subparagraphs (C) and (D) and in-
2 serting the following:

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

6 “(i) apply for adjustment of status; or

7 “(ii) change status to Z nonimmigrant
8 status pursuant to section 601(l)(1)(B) of
9 the Secure Borders, Economic Opportunity
10 and Immigration Reform Act of 2007, pro-
11 vided that the alien also complies with the
12 requirements for second renewal described
13 in section 601(k)(2) of such Act, except for
14 sections 601(k)(2)(B)(i) and (iii).

15 “(D) FINE.—The alien pays to the Sec-
16 retary a fine of \$400.”.

17 (f) ENGLISH LANGUAGE.—Paragraph (6) of such
18 subsection (j) is amended by striking subparagraph (A)
19 and inserting the following:

20 “(A) IN GENERAL.—Not later than the
21 date on which a Z–A nonimmigrant’s status is
22 adjusted or is renewed under section
23 601(l)(1)(B), a Z–A nonimmigrant who is 18
24 years of age or older must pass the naturaliza-

1 tion test described in paragraphs (1) and (2) of
2 section 312(a).”.

3 (g) **ELIGIBILITY FOR LEGAL SERVICES.**—Such sec-
4 tion 214A is amended by striking subsection (m) and in-
5 serting the following:

6 “(m) **ELIGIBILITY FOR LEGAL SERVICES.**—Section
7 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53)
8 shall not be construed to prevent a recipient of funds
9 under the Legal Services Corporation Act (42 U.S.C. 2996
10 et seq.) from providing legal assistance directly related to
11 an application for a Z–A visa under subsection (d) or an
12 adjustment of status under subsection (j).”.

13 **SEC. ___ 8. EFFECTIVE DATE.**

14 Subsection (a) of section 1 in the material preceding
15 paragraph (1) shall be deemed to read as follows:

16 (a) **IN GENERAL.**—With the exception of the proba-
17 tionary benefits conferred by section 601(h) of this Act,
18 section 214A(d) of the Immigration and Nationality Act,
19 as added by section 622, the provisions of subtitle C of
20 title IV, and the admission of aliens under section
21 101(a)(15)(H)(ii) of the Immigration and Nationality Act
22 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV, the
23 programs established by title IV, and the programs estab-
24 lished by title VI that grant legal status to any individual
25 or that adjust the current status of any individual who

1 is unlawfully present in the United States to that of an
2 alien lawfully admitted for permanent residence, shall be-
3 come effective on the date that the Secretary submits a
4 written certification to the President and the Congress,
5 based on analysis by and in consultation with the Com-
6 troller General, that each of the following border security
7 and other measures are established, funded, and oper-
8 ational: