June 27, 2013

Ordered to be printed as passed

113TH CONGRESS 1ST SESSION S. 744

AN ACT

To provide for comprehensive immigration reform and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- 2 (a) SHORT TITLE.—This Act may be cited as the
- 3 "Border Security, Economic Opportunity, and Immigra-
- 4 tion Modernization Act".
- 5 (b) Table of Contents for
- 6 this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Statement of congressional findings.
 - Sec. 3. Effective date triggers.
 - Sec. 4. Southern Border Security Commission.
 - Sec. 5. Comprehensive Southern Border Security Strategy and Southern Border Fencing Strategy.
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 - Sec. 7. Reference to the Immigration and Nationality Act.
 - Sec. 8. Definitions.
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- Sec. 1102. Additional U.S. Border Patrol and U.S. Customs and Border Protection officers.
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1 SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS.

- 2 Congress makes the following findings:
- 3 (1) The passage of this Act recognizes that the 4 primary tenets of its success depend on securing the 5 sovereignty of the United States of America and es-
- 6 tablishing a coherent and just system for integrating
- 7 those who seek to join American society.
- 8 (2) We have a right, and duty, to maintain and
- 9 secure our borders, and to keep our country safe and
- prosperous. As a Nation founded, built and sus-
- tained by immigrants we also have a responsibility
- to harness the power of that tradition in a balanced
- way that secures a more prosperous future for
- 14 America.
- 15 (3) We have always welcomed newcomers to the
- 16 United States and will continue to do so. But in

- 1 order to qualify for the honor and privilege of even-2 tual citizenship, our laws must be followed. The 3 world depends on America to be strong—economi-4 cally, militarily and ethically. The establishment of a 5 stable, just, and efficient immigration system only 6 supports those goals. As a Nation, we have the right and responsibility to make our borders safe, to es-7 8 tablish clear and just rules for seeking citizenship, to 9 control the flow of legal immigration, and to elimi-10 nate illegal immigration, which in some cases has be-11 come a threat to our national security.
- 12 (4) All parts of this Act are premised on the 13 right and need of the United States to achieve these 14 goals, and to protect its borders and maintain its 15 sovereignty.

16 SEC. 3. EFFECTIVE DATE TRIGGERS.

- 17 (a) Definitions.—In this section:
- 18 (1) COMMISSION.—The term "Commission"
 19 means the Southern Border Security Commission es20 tablished pursuant to section 4.
 - (2) Comprehensive southern border secu-RITY STRATEGY.—The term "Comprehensive Southern Border Security Strategy" means the strategy established by the Secretary pursuant to section 5(a)

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- to achieve and maintain an effectiveness rate of 90
 percent or higher in all border sectors.
 - (3) Effective control.—The term "effective control" means the ability to achieve and maintain, in a Border Patrol sector—
 - (A) persistent surveillance; and
 - (B) an effectiveness rate of 90 percent or higher.
 - (4) EFFECTIVENESS RATE.—The "effectiveness rate", in the case of a border sector, is the percentage calculated by dividing the number of apprehensions and turn backs in the sector during a fiscal year by the total number of illegal entries in the sector during such fiscal year.
 - (5) SOUTHERN BORDER.—The term "Southern border" means the international border between the United States and Mexico.
 - (6) SOUTHERN BORDER FENCING STRATEGY.—
 The term "Southern Border Fencing Strategy"
 means the strategy established by the Secretary pursuant to section 5(b) that identifies where fencing
 (including double-layer fencing), infrastructure, and
 technology, including at ports of entry, should be deployed along the Southern border.

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

(c) Triggers.—

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

(2) Adjustment of status of registered provisional immigrants.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, until 6 months after the date on which the

1	Secretary, after consultation with the Attorney
2	General, the Secretary of Defense, the Inspec-
3	tor General of the Department, and the Comp-
4	troller General of the United States, submits to
5	the President and Congress a written certifi-
6	cation that—
7	(i) the Comprehensive Southern Bor-
8	der Security Strategy—
9	(I) has been submitted to Con-
10	gress and includes minimum require-
11	ments described under paragraph (3),
12	(4), and (5) of section 5(a);
13	(II) is deployed and operational
14	(for purposes of this clause the term
15	"operational" means the technology,
16	infrastructure, and personnel, deemed
17	necessary by the Secretary, in con-
18	sultation with the Attorney General
19	and the Secretary of Defense, and the
20	Comptroller General, and includes the
21	technology described under section
22	5(a)(3) to achieve effective control of
23	the Southern border, has been pro-
24	cured, funded, and is in current use
25	by the Department to achieve effective

1 control, except in the event of routine 2 maintenance, de minimis non-deploy-3 ment, or natural disaster that would 4 prevent the use of such assets); (ii) the Southern Border Fencing 6 7 and implemented, and as a result the Sec-8

Strategy has been submitted to Congress retary will certify that there is in place along the Southern Border no fewer than 700 miles of pedestrian fencing which will include replacement of all currently existing vehicle fencing on non-tribal lands on the Southern Border with pedestrian fencing where possible, and after this has been accomplished may include a second layer of pedestrian fencing in those locations along the Southern Border which the Secretary deems necessary or appropriate;

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

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1	unauthorized workers from obtaining em-
2	ployment in the United States;
3	(iv) the Secretary is using the elec-
4	tronic exit system created by section
5	3303(a)(1) at all international air and sea
6	ports of entry within the United States
7	where U.S. Customs and Border Protec-
8	tion officers are currently deployed; and
9	(v) no fewer than 38,405 trained full-
10	time active duty U.S. Border Patrol agents
11	are deployed, stationed, and maintained
12	along the Southern Border.
13	(B) Exception.—The Secretary shall per-
14	mit registered provisional immigrants to apply
15	for an adjustment to lawful permanent resident
16	status if—
17	(i)(I) litigation or a force majeure has
18	prevented 1 or more of the conditions de-
19	scribed in clauses (i) through (iv) of sub-
20	paragraph (A) from being implemented; or
21	(II) the implementation of subpara-
22	graph (A) has been held unconstitutional
23	by the Supreme Court of the United States
24	or the Supreme Court has granted certio-
25	rari to the litigation on the constitu-

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

- 1 (1) In General.—The district courts of the 2 United States shall have exclusive jurisdiction to 3 hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary 5 under subsection (d). A cause of action or claim may 6 only be brought alleging a violation of the Constitu-7 tion of the United States. The court does not have 8 jurisdiction to hear any claim not specified in this 9 paragraph.
 - (2) TIME FOR FILING COMPLAINT.—If a cause or claim under paragraph (1) is not filed within 60 days after the date of the contested action or decision by the Secretary, the claim shall be barred.
 - (3) APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

18 SEC. 4. SOUTHERN BORDER SECURITY COMMISSION.

(a) Establishment.—

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

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1	(2) Expenditures and report.—Only if the
2	Secretary cannot certify that the Department has
3	achieved effective control in all border sectors for at
4	least 1 fiscal year before the date that is 5 years
5	after the date of the enactment of this Act—
6	(A) the report described in subsection (d)
7	shall be submitted; and
8	(B) 60 days after such report is submitted,
9	the funds made available in section
10	6(a)(3)(A)(iii) may be expended (except as pro-
11	vided in subsection (i)).
12	(b) Composition.—
13	(1) In General.—The Commission shall be
14	composed of—
15	(A) 2 members who shall be appointed by
16	the President;
17	(B) 2 members who shall be appointed by
18	the President pro tempore of the Senate, of
19	which—
20	(i) 1 shall be appointed upon the rec-
21	ommendation of the leader in the Senate of
22	the political party that is not the political
23	party of the President; and

1	(ii) 1 shall be appointed upon the rec-
2	ommendation of the leader in the Senate of
3	the other political party;
4	(C) 2 members who shall be appointed by
5	the Speaker of the House of Representatives, of
6	which—
7	(i) 1 shall be appointed upon the rec-
8	ommendation of the leader in the House of
9	Representatives of the political party that
10	is not the political party of the President;
11	and
12	(ii) 1 shall be appointed upon the rec-
13	ommendation of the leader in the House of
14	Representatives of the other political party;
15	and
16	(D) 5 members, consisting of 1 member
17	from the Southwestern State of Nevada and 1
18	member from each of the States along the
19	Southern border, who shall be—
20	(i) the Governor of such State; or
21	(ii) appointed by the Governor of each
22	such State.
23	(2) Qualifications for appointment.—The
24	members of the Commission shall be distinguished
25	individuals noted for their knowledge and experience

- in the field of border security at the Federal, State, or local level and may also include reputable individuals who are landowners in the Southern border area with first-hand experience with border issues.
 - (3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 1 year after the date of the enactment of this Act.
 - (4) CHAIR.—At the first meeting of the Commission, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.
 - (5) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.
 - (6) Rules.—The Commission shall establish the rules and procedures of the Commission which shall require the approval of at least 6 members of the Commission.

21 (c) Duties.—

(1) IN GENERAL.—The Commission's primary responsibility shall be to make recommendations to the President, the Secretary, and Congress on policies to achieve and maintain the border security goal

1	specified in section 3(b) by achieving and maintain-
2	ing—
3	(A) the capability to engage in, and engag-
4	ing in, persistent surveillance in border sectors
5	along the Southern border; and
6	(B) an effectiveness rate of 90 percent or
7	higher in all border sectors along the Southern
8	border.
9	(2) Public Hearings.—
10	(A) In General.—The Commission shall
11	convene at least 1 public hearing each year on
12	border security.
13	(B) Report.—The Commission shall pro-
14	vide a summary of each hearing convened pur-
15	suant to subparagraph (A) to the entities set
16	out in subparagraphs (A) through (G) of sec-
17	tion $5(a)(1)$.
18	(d) Report.—If required pursuant to subsection
19	(a)(2)(B) and in no case earlier than the date that is 5
20	years after the date of the enactment of this Act, the Com-
21	mission shall submit to the President, the Secretary, and
22	Congress a report setting forth specific recommendations
23	for policies for achieving and maintaining the border secu-
24	rity goals specified in subsection (c). The report shall in-
25	clude, at a minimum, recommendations for the personnel,

- 1 infrastructure, technology, and other resources required to
- 2 achieve and maintain an effectiveness rate of 90 percent
- 3 or higher in all border sectors.
- 4 (e) Travel Expenses.—Members of the Commis-
- 5 sion shall be allowed travel expenses, including per diem
- 6 in lieu of subsistence rates authorized for employees of
- 7 agencies under subchapter I of chapter 57 of title 5,
- 8 United States Code, while away from their homes or reg-
- 9 ular places of business in the performance of services for
- 10 the Commission.
- 11 (f) Administrative Support.—The Secretary shall
- 12 provide the Commission such staff and administrative
- 13 services as may be necessary and appropriate for the Com-
- 14 mission to perform its functions. Any employee of the ex-
- 15 ecutive branch of Government may be detailed to the Com-
- 16 mission without reimbursement to the agency of that em-
- 17 ployee and such detail shall be without interruption or loss
- 18 of civil service or status or privilege.
- 19 (g) Comptroller General Review.—The Comp-
- 20 troller General of the United States shall review the rec-
- 21 ommendations in the report submitted under subsection
- 22 (d) in order to determine—
- (1) whether any of the recommendations are
- likely to achieve effective control in all border sec-
- 25 tors;

1	(2) which recommendations are most likely to
2	achieve effective control; and
3	(3) whether such recommendations are feasible
4	within existing budget constraints.
5	(h) Termination.—The Commission shall terminate
6	10 years after the date of the enactment of this Act.
7	(i) Funding.—The amounts made available under
8	section 6(a)(3)(A)(iii) to carry out programs, projects, and
9	activities recommended by the Commission may not be ex-
10	pended prior to the date that is 60 days after a report
11	required by subsection (d) is submitted and, in no case,
12	prior to 60 days after the date that is 5 years after the
13	date of the enactment of this Act, except that funds made
14	available under section 6(a)(3)(A)(iii) may be used for
15	minimal administrative expenses directly associated with
16	convening the public hearings required by subsection
17	(c)(2)(A) and preparing and providing summaries of such
18	hearings required by subsection $(c)(2)(B)$.
19	SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY
20	STRATEGY AND SOUTHERN BORDER FENC-
21	ING STRATEGY.
22	(a) Comprehensive Southern Border Security
23	Strategy.—
24	(1) In general.—Not later than 180 days
25	after the date of the enactment of this Act, the Sec-

1	retary, in consultation with the Attorney General
2	and the Secretary of Defense, shall submit a strat-
3	egy, to be known as the "Comprehensive Southern
4	Border Security Strategy", for achieving and main-
5	taining effective control between and at the ports of
6	entry in all border sectors along the Southern bor-
7	der, to—
8	(A) the Committee on Homeland Security
9	and Governmental Affairs of the Senate;
10	(B) the Committee on Homeland Security
11	of the House of Representatives;
12	(C) the Committee on Appropriations of
13	the Senate;
14	(D) the Committee on Appropriations of
15	the House of Representatives;
16	(E) the Committee on the Judiciary of the
17	Senate;
18	(F) the Committee on the Judiciary of the
19	House of Representatives;
20	(G) the Committee on Armed Services of
21	the Senate;
22	(H) the Committee on Armed Services of
23	the House of Representatives; and
24	(I) the Comptroller General of the United
25	States.

1	(2) Elements.—The Comprehensive Southern
2	Border Security Strategy shall specify—
3	(A) the priorities that must be met for the
4	strategy to be successfully executed; and
5	(B) the capabilities required to meet each
6	of the priorities referred to in subparagraph
7	(A), including—
8	(i) surveillance and detection capabili-
9	ties developed or used by the various De-
10	partments and Agencies for the Federal
11	government for the purposes of enhancing
12	the functioning and operational capability
13	to conduct continuous and integrated
14	manned or unmanned, monitoring, sensing,
15	or surveillance of 100 percent of Southern
16	border mileage or the immediate vicinity of
17	the Southern border;
18	(ii) the requirement for stationing suf-
19	ficient Border Patrol agents and Customs
20	and Border Protection officers between
21	and at ports of entry along the Southern
22	border; and
23	(iii) the necessary and qualified staff
24	and equipment to fully utilize available un-

1	armed, unmanned aerial systems and un-
2	armed, fixed wing aircraft.
3	(3) MINIMUM REQUIREMENTS.—The Com-
4	prehensive Southern Border Security Strategy shall
5	require, at a minimum, the deployment of the fol-
6	lowing technologies for each Border Patrol sector
7	along the Southern Border:
8	(A) ARIZONA (YUMA AND TUCSON SEC-
9	TORS).—For Arizona (Yuma and Tucson Sec-
10	tors) between ports of entry the following:
11	(i) 50 integrated fixed towers.
12	(ii) 73 fixed camera systems (with re-
13	location capability), which include Remote
14	Video Surveillance Systems.
15	(iii) 28 mobile surveillance systems,
16	which include mobile video surveillance sys-
17	tems, agent-portable surveillance systems,
18	and mobile surveillance capability systems.
19	(iv) 685 unattended ground sensors,
20	including seismic, imaging, and infrared.
21	(v) 22 handheld equipment devices,
22	including handheld thermal imaging sys-
23	tems and night vision goggles.
24	(B) San diego, california.—For San
25	Diego, California the following:

1	(i) Between ports of entry.—Be-
2	tween ports of entry the following:
3	(I) 3 integrated fixed towers.
4	(II) 41 fixed camera systems
5	(with relocation capability), which in-
6	clude Remote Video Surveillance Sys-
7	tems.
8	(III) 14 mobile surveillance sys-
9	tems, which include mobile video sur-
10	veillance systems, agent-portable sur-
11	veillance systems, and mobile surveil-
12	lance capability systems.
13	(IV) 393 unattended ground sen-
14	sors, including seismic, imaging, and
15	infrared.
16	(V) 83 handheld equipment de-
17	vices, including handheld thermal im-
18	aging systems and night vision gog-
19	gles.
20	(ii) At points of entry, check-
21	POINTS.—At points of entry, checkpoints
22	the following:
23	(I) 2 non-intrusive inspection sys-
24	tems, including fixed and mobile.
25	(II) 1 radiation portal monitor.

1	(III) 1 littoral detection and clas-
2	sification network
3	(C) EL CENTRO, CALIFORNIA.—For El
4	Centro, California the following:
5	(i) Between Ports of Entry.—Be-
6	tween ports of entry the following:
7	(I) 66 fixed camera systems
8	(with relocation capability), which in-
9	clude Remote Video Surveillance Sys-
10	tems.
11	(II) 18 mobile surveillance sys-
12	tems, which include mobile video sur-
13	veillance systems, agent-portable sur-
14	veillance systems, and mobile surveil-
15	lance capability systems.
16	(III) 85 unattended ground sen-
17	sors, including seismic, imaging, and
18	infrared.
19	(IV) 57 handheld equipment de-
20	vices, including handheld thermal im-
21	aging systems and night vision gog-
22	gles.
23	(V) 2 sensor repeaters.
24	(VI) 2 communications repeaters.

1	(ii) At points of entry, check-
2	POINTS.—At points of entry, checkpoints
3	the following:
4	(I) 5 fiber-optic tank inspection
5	scopes.
6	(II) 1 license plate reader.
7	(III) 1 backscatter.
8	(IV) 2 portable contraband detec-
9	tors.
10	(V) 2 radiation isotope identifica-
11	tion devices.
12	(VI) 8 radiation isotope identi-
13	fication devices updates.
14	(VII) 3 personal radiation detec-
15	tors.
16	(VIII) 16 mobile automated tar-
17	geting systems.
18	(D) El Paso, Texas.—For El Paso,
19	Texas the following:
20	(i) Between ports of entry.—Be-
21	tween ports of entry the following:
22	(I) 27 integrated fixed towers.
23	(II) 71 fixed camera systems
24	(with relocation capability), which in-

1	clude Remote Video Surveillance Sys-
2	tems.
3	(III) 31 mobile surveillance sys-
4	tems, which include mobile video sur-
5	veillance systems, agent-portable sur-
6	veillance systems, and mobile surveil-
7	lance capability systems.
8	(IV) 170 unattended ground sen-
9	sors, including seismic, imaging, and
10	infrared.
11	(V) 24 handheld equipment de-
12	vices, including handheld thermal im-
13	aging systems and night vision gog-
14	gles.
15	(VI) 1 communications repeater.
16	(VII) 1 sensor repeater.
17	(VIII) 2 camera refresh.
18	(ii) At points of entry, check-
19	POINTS.—At points of entry, checkpoints
20	the following:
21	(I) 4 non-intrusive inspection sys-
22	tems, including fixed and mobile.
23	(II) 23 fiber-optic tank inspection
24	scopes.

1	(III) 1 portable contraband de-
2	tectors.
3	(IV) 19 radiation isotope identi-
4	fication devices updates.
5	(V) 1 real time radioscopy
6	version 4.
7	(VI) 8 personal radiation detec-
8	tors.
9	(E) BIG BEND, TEXAS.—For Big Bend,
10	Texas the following:
11	(i) Between ports of entry.—Be-
12	tween ports of entry the following:
13	(I) 7 fixed camera systems (with
14	relocation capability), which include
15	remote video surveillance systems.
16	(II) 29 mobile surveillance sys-
17	tems, which include mobile video sur-
18	veillance systems, agent-portable sur-
19	veillance systems, and mobile surveil-
20	lance capability systems.
21	(III) 1105 unattended ground
22	sensors, including seismic, imaging,
23	and infrared.
24	(IV) 131 handheld equipment de-
25	vices, including handheld thermal im-

1	aging systems and night vision gog-
2	gles.
3	(V) 1 mid-range camera refresh
4	(VI) 1 improved surveillance ca-
5	pabilities for existing aerostat.
6	(VII) 27 sensor repeaters.
7	(VIII) 27 communications re-
8	peaters.
9	(ii) At points of entry, check-
10	POINTS.—At points of entry, checkpoints
11	the following:
12	(I) 7 fiber-optic tank inspection
13	scopes.
14	(II) 3 license plate readers, in-
15	cluding mobile, tactical, and fixed.
16	(III) 12 portable contraband de-
17	tectors.
18	(IV) 7 radiation isotope identi-
19	fication devices.
20	(V) 12 radiation isotope identi-
21	fication devices updates.
22	(VI) 254 personal radiation de-
23	tectors.
24	(VII) 19 mobile automated tar-
25	geting systems.

1	(F) Del Rio, Texas.—For Del Rio, Texas
2	the following:
3	(i) Between ports of entry.—Be-
4	tween ports of entry the following:
5	(I) 3 integrated fixed towers.
6	(II) 74 fixed camera systems
7	(with relocation capability), which in-
8	clude remote video surveillance sys-
9	tems.
10	(III) 47 mobile surveillance sys-
11	tems, which include mobile video sur-
12	veillance systems, agent-portable sur-
13	veillance systems, and mobile surveil-
14	lance capability systems.
15	(IV) 868 unattended ground sen-
16	sors, including seismic, imaging, and
17	infrared.
18	(V) 174 handheld equipment de-
19	vices, including handheld thermal im-
20	aging systems and night vision gog-
21	gles.
22	(VI) 26 mobile/handheld inspec-
23	tion scopes and sensors for check-
24	points.

1	(VII) 1 improved surveillance ca-
2	pabilities for existing aerostat.
3	(VIII) 21 sensor repeaters.
4	(IX) 21 communications repeat-
5	ers.
6	(ii) At points of entry, check-
7	POINTS.—At points of entry, checkpoints
8	the following:
9	(I) 4 license plate readers, in-
10	cluding mobile, tactical, and fixed.
11	(II) 13 radiation isotope identi-
12	fication devices updates.
13	(III) 3 mobile automated tar-
14	geting systems.
15	(IV) 6 land automated targeting
16	systems.
17	(G) Laredo, Texas.—For Laredo, Texas
18	the following:
19	(i) Between the ports of
20	ENTRY.—Between ports of entry the fol-
21	lowing:
22	(I) 2 integrated fixed towers.
23	(II) 69 fixed camera systems
24	(with relocation capability), which in-

1	clude remote video surveillance sys-
2	tems.
3	(III) 38 mobile surveillance sys-
4	tems, which include mobile video sur-
5	veillance systems, agent-portable sur-
6	veillance systems, and mobile surveil-
7	lance capability systems.
8	(IV) 573 unattended ground sen-
9	sors, including seismic, imaging, and
10	infrared.
11	(V) 124 handheld equipment de-
12	vices, including handheld thermal im-
13	aging systems and night vision gog-
14	gles.
15	(VI) 38 sensor repeaters.
16	(VII) 38 communications repeat-
17	ers.
18	(ii) At points of entry, check-
19	POINTS.—At points of entry, checkpoints
20	the following:
21	(I) 1 non-intrusive inspection sys-
22	tem.
23	(II) 7 fiber-optic tank inspection
24	scopes.

1	(III) 19 license plate readers, in-
2	cluding mobile, tactical, and fixed.
3	(IV) 2 backscatter.
4	(V) 14 portable contraband de-
5	tectors.
6	(VI) 2 radiation isotope identi-
7	fication devices.
8	(VII) 18 radiation isotope identi-
9	fication devices updates.
10	(VIII) 16 personal radiation de-
11	tectors.
12	(IX) 24 mobile automated tar-
13	geting systems.
14	(X) 3 land automated targeting
15	systems.
16	(H) RIO GRANDE VALLEY.—For Rio
17	Grande Valley the following:
18	(i) Between ports of entry.—Be-
19	tween ports of entry the following:
20	(I) 1 integrated fixed towers.
21	(II) 87 fixed camera systems
22	(with relocation capability), which in-
23	clude remote video surveillance sys-
24	tems.

1	(III) 27 mobile surveillance sys-
2	tems, which include mobile video sur-
3	veillance systems, agent-portable sur-
4	veillance systems, and mobile surveil-
5	lance capability systems.
6	(IV) 716 unattended ground sen-
7	sors, including seismic, imaging, and
8	infrared.
9	(V) 205 handheld equipment de-
10	vices, including handheld thermal im-
11	aging systems and night vision gog-
12	gles.
13	(VI) 4 sensor repeaters.
14	(VII) 1 communications repeater.
15	(VIII) 2 camera refresh.
16	(ii) At points of entry, check-
17	Points.—At points of entry, checkpoints
18	the following:
19	(I) 1 mobile non-intrusive inspec-
20	tion system.
21	(II) 11 fiberoptic tank inspection
22	scopes.
23	(III) 1 license plate reader.
24	(IV) 2 backscatter.
25	(V) 2 card reader system.

1	(VI) 8 portable contraband detec-
2	tors.
3	(VII) 5 radiation isotope identi-
4	fication devices.
5	(VIII) 18 radiation isotope iden-
6	tification devices updates.
7	(IX) 135 personal radiation de-
8	tectors.
9	(iii) Air and marine across the
10	SOUTHWEST BORDER.—For air and ma-
11	rine across the Southwest border the fol-
12	lowing:
13	(I) 4 unmanned aircraft systems.
14	(II) 6 VADER radar systems.
15	(III) 17 UH–1N helicopters.
16	(IV) 8 C-206H aircraft up-
17	grades.
18	(V) 8 AS-350 light enforcement
19	helicopters.
20	(VI) 10 Blackhawk helicopter 10
21	A–L conversions, 5 new Blackhawk M
22	Model.
23	(VII) 30 marine vessels.
24	(4) Redeployment of resources to
25	ACHIEVE EFFECTIVE CONTROL.—The Secretary may

- reallocate the personnel, infrastructure, and technologies required in the Southern Border Security Strategy to achieve effective control of the Southern border.
 - (5) ALTERNATE TECHNOLOGY.—If the Secretary determines that an alternate or new technology is at least as effective as the technologies described in paragraph (3) and provides a commensurate level of security, the Secretary may deploy that technology in its place and without regard to the minimums in this section. The Secretary shall notify Congress within 60 days of any such determination.
 - (6) Annual Report.—Beginning 1 year after the enactment of this Act, and annually thereafter, the Secretary shall provide to Congress a written report to Congress on the sector-by-sector deployment of infrastructure and technologies.
 - (7) Additional Elements regarding execution.—The Comprehensive Southern Border Security Strategy shall describe—
 - (A) how the resources referred to in paragraph (2)(C) will be properly aligned with the priorities referred to in paragraph (2)(A) to ensure that the strategy will be successfully executed;

1	(B) the interim goals that must be accom-
2	plished to successfully implement the strategy;
3	and
4	(C) the schedule and supporting milestones
5	under which the Department will accomplish
6	the interim goals referred to in subparagraph
7	(B).
8	(8) Implementation.—
9	(A) IN GENERAL.—The Secretary shall
10	commence the implementation of the Com-
11	prehensive Southern Border Security Strategy
12	immediately after submitting the strategy under
13	paragraph (1).
14	(B) NOTICE OF COMMENCEMENT.—Upon
15	commencing the implementation of the strategy,
16	the Secretary shall submit a notice of com-
17	mencement of such implementation to—
18	(i) Congress; and
19	(ii) the Comptroller General of the
20	United States.
21	(9) Semiannual reports.—
22	(A) IN GENERAL.—Not later than 180
23	days after the Comprehensive Southern Border
24	Security Strategy is submitted under paragraph
25	(1), and every 180 days thereafter, the Sec-

1	retary shall submit a report on the status of the
2	Department's implementation of the strategy
3	to—
4	(i) the Committee on Homeland Secu-
5	rity and Governmental Affairs of the Sen-
6	ate;
7	(ii) the Committee on Homeland Se-
8	curity of the House of Representatives;
9	(iii) the Committee on Appropriations
10	of the Senate;
11	(iv) the Committee on Appropriations
12	of the House of Representatives;
13	(v) the Committee on the Judiciary of
14	the Senate;
15	(vi) the Committee on the Judiciary of
16	the House of Representatives; and
17	(vii) the Comptroller General of the
18	United States.
19	(B) Elements.—Each report submitted
20	under subparagraph (A) shall include—
21	(i) a detailed description of the steps
22	the Department has taken, or plans to
23	take, to execute the strategy submitted
24	under paragraph (1), including the
25	progress made toward achieving the in-

1	terim goals and milestone schedule estab-
2	lished pursuant to subparagraphs (B) and
3	(C) of paragraph (3);
4	(ii) a detailed description of—
5	(I) any impediments identified in
6	the Department's efforts to execute
7	the strategy;
8	(II) the actions the Department
9	has taken, or plans to take, to address
10	such impediments; and
11	(III) any additional measures de-
12	veloped by the Department to meas-
13	ure the state of security along the
14	Southern border; and
15	(iii) for each Border Patrol sector
16	along the Southern border—
17	(I) the effectiveness rate for each
18	individual Border Patrol sector and
19	the aggregated effectiveness rate;
20	(II) the number of recidivist ap-
21	prehensions, sorted by Border Patrol
22	sector; and
23	(III) the recidivism rate for all
24	unique subjects that received a crimi-

nal consequence through the Consequence Delivery System process.

(C) Annual Review.—The Comptroller General of the United States shall conduct an annual review of the information contained in the semiannual reports submitted by the Secretary under this paragraph and submit an assessment of the status and progress of the Southern Border Security Strategy to the committees set forth in subparagraph (A).

(b) SOUTHERN BORDER FENCING STRATEGY.—

- (1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a strategy, to be known as the "Southern Border Fencing Strategy", to identify where 700 miles of fencing (including double-layer fencing), infrastructure, and technology, including at ports of entry, should be deployed along the Southern border.
- (2) Submission.—The Secretary shall submit the Southern Border Fencing Strategy to Congress and the Comptroller General of the United States for review.
- 24 (3) NOTICE OF COMMENCEMENT.—Upon commencing the implementation of the Southern Border

1	Fencing Strategy, the Secretary shall submit a no-
2	tice of commencement of the implementation of the
3	Strategy to Congress and the Comptroller General of
4	the United States.
5	(4) Consultation.—
6	(A) IN GENERAL.—In implementing the
7	Southern Border Fencing Strategy required by
8	this subsection, the Secretary shall consult with
9	the Secretary of the Interior, the Secretary of
10	Agriculture, States, local governments, Indian
11	tribes, and property owners in the United
12	States to minimize the impact on the environ-
13	ment, culture, commerce, and quality of life for
14	the communities and residents located near the
15	sites at which such fencing is to be constructed.
16	(B) Savings provision.—Nothing in this
17	paragraph may be construed to—
18	(i) create or negate any right of action
19	for a State or local government or other
20	person or entity affected by this sub-
21	section; or
22	(ii) affect the eminent domain laws of
23	the United States or of any State.
24	(5) Limitation on requirements.—Notwith-
25	standing paragraph (1), nothing in this subsection

1	shall require the Secretary to install fencing, or in-
2	frastructure that directly results from the installa-
3	tion of such fencing, in a particular location along
4	the Southern border, if the Secretary determines
5	that the use or placement of such resources is not
6	the most appropriate means to achieve and maintain
7	effective control over the Southern border at such lo-
8	cation.
9	SEC. 6. COMPREHENSIVE IMMIGRATION REFORM FUNDS.
10	(a) Comprehensive Immigration Reform Trust
11	Fund.—
12	(1) Establishment.—There is established in
13	the Treasury a separate account, to be known as the
14	Comprehensive Immigration Reform Trust Fund
15	(referred to in this section as the "Trust Fund"),
16	consisting of—
17	(A) amounts transferred from the general
18	fund of the Treasury under paragraph (2)(A);
19	and
20	(B) proceeds from the fees described in
21	paragraph (2)(B).
22	(2) Deposits.—
23	(A) Initial funding.—On the later of
24	the date of the enactment of this Act or Octo-
25	ber 1, 2013, \$46,300,000,000 shall be trans-

1	ferred from the general fund of the Treasury to
2	the Trust Fund.
3	(B) Ongoing funding.—Notwithstanding
4	section 3302 of title 31, United States Code, in
5	addition to the funding described in subpara-
6	graph (A), and subject to paragraphs (3)(B)
7	and (4), the following amounts shall be depos-
8	ited in the Trust Fund:
9	(i) Electronic travel authoriza-
10	TION SYSTEM FEES.—Fees collected under
11	section 217(h)(3)(B)(i)(II) of the Immigra-
12	tion and Nationality Act, as added by sec-
13	tion 1102(c).
14	(ii) Registered provisional immi-
15	GRANT PENALTIES.—Penalties collected
16	under section $245B(c)(10)(C)$ of the Immi-
17	gration and Nationality Act, as added by
18	section 2101.
19	(iii) Blue card penalty.—Penalties
20	collected under section 2211(b)(9)(C).
21	(iv) Fine for adjustment from
22	BLUE CARD STATUS.—Fines collected
23	under section 245F(a)(5) of the Immigra-
24	tion and Nationality Act, as added by sec-
25	tion 2212(a).

1	(v) Penalties for false state-
2	MENTS IN APPLICATIONS.—Fines collected
3	under section 245F(f) of the Immigration
4	and Nationality Act, as added by section
5	2212(a).
6	(vi) Merit system green card
7	FEES.—Fees collected under section
8	203(c)(6) of the Immigration and Nation-
9	ality Act, as amended by section
10	2301(a)(2).
11	(vii) H–1B and L visa fees.—Fees
12	collected under section 281(d) of the Immi-
13	gration and Nationality Act, as added by
14	section 4105.
15	(viii) H-1B outplacement fee.—
16	Fees collected under section
17	212(n)(1)(F)(ii) of the Immigration and
18	Nationality Act, as amended by section
19	4211(d).
20	(ix) H-1B nonimmigrant depend-
21	ENT EMPLOYER FEES.—Fees collected
22	under section $4233(a)(2)$.
23	(x) L nonimmigrant dependent
24	EMPLOYER FEES.—Fees collected under
25	section $4305(a)(2)$.

1	(xi) J-1 visa mitigation fees.—
2	Fees collected under section 281(e) of the
3	Immigration and Nationality Act, as added
4	by section 4407.
5	(xii) F-1 VISA FEES.—Fees collected
6	under section 281(f) of the Immigration
7	and Nationality Act, as added by section
8	4409.
9	(xiii) Retiree visa fees.—Fees col-
10	lected under section 214(w)(1)(B) of the
11	Immigration and Nationality Act, as added
12	by section 4504(b).
13	(xiv) Visitor visa fees.—Fees col-
14	lected under section 281(g) of the Immi-
15	gration and Nationality Act, as added by
16	section 4509.
17	(xv) H–2B VISA FEES.—Fees col-
18	lected under section $214(x)(5)(A)$ of the
19	Immigration and Nationality Act, as added
20	by section 4602(a).
21	(xvi) Nonimmigrants performing
22	MAINTENANCE ON COMMON CARRIERS.—
23	Fees collected under section 214(z) of the
24	Immigration and Nationality Act, as added
25	by section 4604.

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

(xviii) Penalty for adjustment From Registered Provisional Immigration Grant Status.—Penalties collected under section 245C(c)(5)(B) of the Immigration and Nationality Act, as added by section 2102.

(C) Authority to adjust fees.—As necessary to carry out the purposes of this Act, the Secretary may adjust the amounts of the fees and penalties set out under subparagraph (B), except for the fines and penalties referred to in clauses (ii), (iii), (iv), or (xviii) of such subparagraph; provided further that the Secretary shall adjust the amounts of the fees and penalties set out under subparagraph (B), except for the fines and penalties referred to in clauses (ii), (iii), (iv), or (xviii) of such subparagraph to result in no less than \$500,000,000 being available for fiscal year 2014 and \$1,000,000,000,000 for fiscal years 2015 through 2023 for appropriations for activities authorized

under this Act. If the Secretary determines that adjusting the fees and penalties set out under subparagraph (B) will be insufficient or impractical to cover the costs of the mandatory enforcement expenditures in this Act, the Secretary may charge an additional surcharge on every immigrant and nonimmigrant petition filed with the Secretary in an amount designed to be the minimum proportional surcharge necessary to recover the annual mandatory enforcement expenditures in this legislation.

(3) Use of funds.—

- (A) INITIAL FUNDING.—Of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)—
 - (i) \$30,000,000,000 shall remain available for the 10-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary in hiring and deploying at least 19,200 additional trained full-time active duty U.S. Border Patrol agents along the Southern Border;
 - (ii) \$4,500,000,000 shall remain available for the 5-year period beginning on the date specified in paragraph (2)(A)

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

(iii)\$2,000,000,000 shall remain available for the 10-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to carry out programs, projects, and activities recommended by the Commission pursuant to section 4(d) to achieve and maintain the border security goal specified in section 3(b), and for the administrative expenses directly associated with convening the public hearings required by section 3(c)(2)(A)and preparing and providing summaries of such hearings required by section 3(c)(2)(B);

(iv) \$8,000,000,000 shall be made available to the Secretary, during the 5-year period beginning on the date of the enactment of this Act, to procure and deploy fencing, infrastructure, and technology in accordance with the Southern Border Fencing Strategy established pursuant to section 5(b), not less than

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1	\$7,500,000,000 of which shall be used to
2	deploy, repair, or replace fencing;
3	(v) \$750,000,000 shall remain avail-
4	able for the 6-year period beginning on the
5	date specified in paragraph (2)(A) for use
6	by the Secretary to expand and implement
7	the mandatory employment verification
8	system, which shall be used as required by
9	section 274A of the Immigration and Na-
10	tionality Act (8 U.S.C. 1324a), as amend-
11	ed by section 3101;
12	(vi) \$900,000,000 shall remain avail-
13	able for the 8-year period beginning on the
14	date specified in paragraph (2)(A) for use
15	by the Secretary of State to pay for one-
16	time and startup costs necessary to imple-
17	ment this Act; and
18	(vii) \$150,000,000 shall remain avail-
19	able for the 2-year period beginning on the
20	date specified in paragraph (2)(A) for use
21	by the Secretary for transfer to the Sec-
22	retary of Labor, the Secretary of Agri-
23	culture, or the Attorney General, for initial
24	costs of implementing this Act.

1	(B) Repayment of trust fund ex-
2	PENSES.—The first \$8,300,000,000 collected
3	pursuant to the fees, penalties, and fines re-
4	ferred to in clauses (ii), (iii), (iv), (vi), (xiii)
5	(xvii), and (xviii) of paragraph (2)(B) shall be
6	collected, deposited in the general fund of the
7	Treasury, and used for Federal budget deficit
8	reduction. Collections in excess of
9	\$8,300,000,000 shall be deposited into the
10	Trust Fund, as specified in paragraph (2)(B)
11	(C) Program implementation.—
12	Amounts deposited into the Trust Fund pursu-
13	ant to paragraph (2)(B) shall be available dur-
14	ing each of fiscal years 2014 through 2018 as
15	follows:
16	(i) \$50,000,000 to carry out the ac-
17	tivities referenced in section 1104(a)(1).
18	(ii) \$50,000,000 to carry out the ac-
19	tivities referenced in section 1104(b).
20	(D) Ongoing funding.—Subject to the
21	availability of appropriations, amounts depos-
22	ited in the Trust Fund pursuant to paragraph
23	(2)(B) are authorized to be appropriated as fol-

lows:

1	(i) Such sums as may be necessary to
2	carry out the authorizations included in
3	this Act, including the costs, including pay
4	and benefits, associated with the additional
5	personnel required by section 1102.
6	(ii) Such sums as may be necessary to
7	carry out the operations and maintenance
8	of border security and immigration en-
9	forcement investments referenced in sub-
10	paragraph (A).
11	(E) Expenditure plan.—The Secretary,
12	in consultation with the Attorney General and
13	the Secretary of Defense, shall submit to the
14	Committee on Appropriations of the Senate, the
15	Committee on the Judiciary of the Senate, the
16	Committee on Appropriations of the House of
17	Representatives, and the Committee on the Ju-
18	diciary of the House of Representatives, in con-
19	junction with the Comprehensive Southern Bor-
20	der Strategy and the Southern Border Fencing
21	Strategy, a plan for expenditure that de-
22	scribes—
23	(i) the types and planned deployment
24	of fixed, mobile, video, and agent and offi-
25	cer portable surveillance and detection

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1	equipment, including those recommended
2	or provided by the Department of Defense;
3	(ii) the number of Border Patrol
4	agents and Customs and Border Protection
5	officers to be hired, including a detailed
6	description of which Border Patrol sectors
7	and which land border ports of entry they
8	will be stationed;
9	(iii) the numbers and type of un-
10	armed, unmanned aerial systems and un-
11	armed, fixed-wing and rotary aircraft, in-
12	cluding pilots, air interdiction agents, and
13	support staff to fly or otherwise operate
14	and maintain the equipment;
15	(iv) the numbers, types, and planned
16	deployment of marine and riverine vessels,
17	if any, including marine interdiction agents
18	and support staff to operate and maintain
19	the vessels;
20	(v) the locations, amount, and
21	planned deployment of fencing, including
22	double layer fencing, tactical and other in-
23	frastructure, and technology, including but
24	not limited to fixed towers, sensors, cam-
25	eras, and other detection technology;

1	(vi) the numbers, types, and planned
2	deployment of ground-based mobile surveil-
3	lance systems;
4	(vii) the numbers, types, and planned
5	deployment of tactical and other interoper-
6	able law enforcement communications sys-
7	tems and equipment;
8	(viii) required construction, including
9	repairs, expansion, and maintenance, and
10	location of additional checkpoints, Border
11	Patrol stations, and forward operating
12	bases;
13	(ix) the number of additional attor-
14	neys and support staff for the Office of the
15	United States Attorney for Tucson;
16	(x) the number of additional support
17	staff and interpreters in the Office of the
18	Clerk of the Court for Tucson;
19	(xi) the number of additional per-
20	sonnel, including Marshals and Deputy
21	Marshals for the United States Marshals
22	Office for Tucson;
23	(xii) the number of additional mag-
24	istrate judges for the southern border
25	United States District Courts;

1	(xiii) activities to be funded by the
2	Homeland Security Border Oversight Task
3	Force;
4	(xiv) amounts and types of grants to
5	States and other entities;
6	(xv) amounts and activities necessary
7	to hire additional personnel and for start-
8	up costs related to upgrading software and
9	information technology necessary to transi-
10	tion from a voluntary E-Verify system to
11	mandatory employment verification system
12	under section 274A of the Immigration
13	and Nationality Act (8 U.S.C. 1324a)
14	within 5 years;
15	(xvi) the number of additional per-
16	sonnel and other costs associated with im-
17	plementing the immigration courts and re-
18	moval proceedings mandated in subtitle E
19	of title III;
20	(xvii) the steps the Commissioner of
21	Social Security plans to take to create a
22	fraud-resistant, tamper-resistant, wear-re-
23	sistant, and identity-theft resistant Social
24	Security card, including—

1	(I) the types of equipment need-
2	ed to create the card;
3	(II) the total estimated costs for
4	completion that clearly delineates
5	costs associated with the acquisition
6	of equipment and transition to oper-
7	ation, subdivided by fiscal year and
8	including a description of the purpose
9	by fiscal year for design, pre-acquisi-
10	tion activities, production, and transi-
11	tion to operation;
12	(III) the number and type of per-
13	sonnel, including contract personnel,
14	required to research, design, test, and
15	produce the card; and
16	(IV) a detailed schedule for pro-
17	duction of the card, including an esti-
18	mated completion date at the pro-
19	jected funding level provided in this
20	Act; and
21	(xviii) the operations and maintenance
22	costs associated with the implementation of
23	clauses (i) through (xvii).
24	(F) Annual Revision.—The expenditure
25	plan required in (E) shall be revised and sub-

1	mitted with the President's budget proposals							
2	for fiscal year 2016, 2017, 2018, and 2019							
3	pursuant to the requirements of section 1105(a)							
4	of title 31, United States Code.							
5	(G) Commission expenditure plan.—							
6	(i) Requirement for Plan.—If th							
7	Southern Border Security Commission ref							
8	erenced in section 4 is established, the Sec-							
9	retary shall submit to the appropriate com-							
10	mittees of Congress, not later than 60 days							
11	after the submission of the review required							
12	by section 4(g), a plan for expenditure that							
13	achieves the recommendations in the report							
14	required by section 4(d) and the review re-							
15	quired by section 4(g).							
16	(ii) Appropriate committees of							
17	CONGRESS DEFINED.—In clause (i), the							
18	term "appropriate committees of Con-							
19	gress'' means—							
20	(I) the Committee on Appropria-							
21	tions, the Committee on the Judiciary,							
22	and the Committee on Finance of the							
23	Senate; and							
24	(II) the Committee on Appropria-							
25	tions, the Committee on the Judiciary,							

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

(4) Limitation on collection.—

- (A) IN GENERAL.—No fee deposited in the Trust Fund may be collected except to the extent that the expenditure of the fee is provided for in advance in an appropriations Act only to pay the costs of activities and services for which appropriations are authorized to be funded from the Trust Fund.
- (B) RECEIPTS COLLECTED AS OFFSETTING RECEIPTS.—Until the date of the enactment of an Act making appropriations for the activities authorized under this Act through September 30, 2014, the fees authorized by paragraph (2)(B) that are not deposited into the general fund pursuant to paragraph (3)(B) may be collected and shall be credited as to the Trust Fund to remain available until expended only to pay the costs of activities and services for which appropriations are authorized to be funded from the Trust Fund.
- (b) Comprehensive Immigration Reform Start-UP ACCOUNT.—

- 1 (1) ESTABLISHMENT.—There is established in 2 the Treasury a separate account, to be known as the 3 "Comprehensive Immigration Reform Startup Ac-4 count," (referred to in this section as the "Startup 5 Account"), consisting of amounts transferred from 6 the general fund of the Treasury under paragraph 7 (2).
 - (2) Deposits.—There is appropriated to the Startup Account, out of any funds in the Treasury not otherwise appropriated, \$3,000,000,000, to remain available until expended on the later of the date that is—
- 13 (A) the date of the enactment of this Act; 14 or
 - (B) October 1, 2013.
 - (3) Repayment of Startup Costs.—
 - (A) IN GENERAL.—Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 50 percent of fees collected under section 245B(c)(10)(A) of the Immigration and Nationality Act, as added by section 2101 of this Act, shall be deposited monthly in the general fund of the Treasury and used for Federal budget deficit reduction until the

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1	funding provided by paragraph (2) has been re-
2	paid.
3	(B) Deposit in the immigration exami-
4	NATIONS FEE ACCOUNT.—Fees collected in ex-
5	cess of the amount referenced in subparagraph
6	(A) shall be deposited in the Immigration Ex-
7	aminations Fee Account, pursuant to section
8	286(m) of the Immigration and Nationality Act
9	(8 U.S.C. 1356(m)), and shall remain available
10	until expended pursuant to section 286(n) of
11	the Immigration and Nationality Act (8 U.S.C.
12	1356(n)).
13	(4) Use of funds.—The Secretary shall use
14	the amounts transferred to the Startup Account to
15	pay for one-time and startup costs necessary to im-
16	plement this Act, including—
17	(A) equipment, information technology sys-
18	tems, infrastructure, and human resources;
19	(B) outreach to the public, including devel-
20	opment and promulgation of any regulations
21	rules, or other public notice;
22	(C) grants to community and faith-based
23	organizations; and
24	(D) anti-fraud programs and actions re-
25	lated to implementation of this Act.

1	(5) Expenditure plan.—Not later than 90
2	days after the date of the enactment of this Act, the
3	Secretary, in consultation with the Attorney General
4	and the Secretary of Defense, shall submit to the
5	Committee on Appropriations and the Committee on
6	the Judiciary of the Senate and the Committee on
7	Appropriations and the Committee on the Judiciary
8	of the House of Representatives, a plan for expendi-
9	ture of the one-time and startup funds in the Start-
10	up Account that provides details on—
11	(A) the types of equipment, information
12	technology systems, infrastructure, and human
13	resources;
14	(B) the plans for outreach to the public,
15	including development and promulgation of any
16	regulations, rules, or other public notice;
17	(C) the types and amounts of grants to
18	community and faith-based organizations; and
19	(D) the anti-fraud programs and actions
20	related to implementation of this Act.
21	(c) Annual Audits.—
22	(1) Audits required.—Not later than Octo-
23	ber 1 each year beginning on or after the date of the
24	enactment of this Act, the Chief Financial Officer of
25	the Department of Homeland Security shall, in con-

- junction with the Inspector General of the Department of Homeland Security, conduct an audit of the Trust Fund.
 - (2) Reports.—Upon completion of each audit of the Trust Fund under paragraph (1), the Chief Financial Officer shall, in conjunction with the Inspector General, submit to Congress, and make available to the public on an Internet website of the Department available to the public, a jointly audited financial statement concerning the Trust Fund.
 - (3) ELEMENTS.—Each audited financial statement under paragraph (2) shall include the following:
 - (A) The report of an independent certified public accountant.
 - (B) A balance sheet reporting admitted assets, liabilities, capital and surplus.
 - (C) A statement of cash flow.
 - (D) Such other information on the Trust Fund as the Chief Financial Officer, the Inspector General, or the independent certified public accountant considers appropriate to facilitate a comprehensive understanding of the Trust Fund during the year covered by the financial statement.

- 1 (d) Determination of Budgetary Effects.—
- 2 (1) Emergency designation for congres-
- 3 SIONAL ENFORCEMENT.—In the Senate, amounts
- 4 appropriated by or deposited in the general fund of
- 5 the Treasury pursuant to this section are designated
- 6 as an emergency requirement pursuant to section
- 7 403(a) of S. Con. Res. 13 (111th Congress), the
- 8 concurrent resolution on the budget for fiscal year
- 9 2010.
- 10 (2) Emergency designation for statutory
- 11 PAYGO.—Amounts appropriated by or deposited in
- the general fund of the Treasury pursuant to this
- section are designated as an emergency requirement
- under section 4(g) of the Statutory Pay-As-You-Go
- 15 Act of 2010 (Public Law 111–139; 2 U.S.C.
- 16 933(g)).
- 17 SEC. 7. REFERENCE TO THE IMMIGRATION AND NATION-
- 18 ALITY ACT.
- Except as otherwise expressly provided, whenever in
- 20 this Act an amendment or repeal is expressed in terms
- 21 of an amendment to, or repeal of, a section or other provi-
- 22 sion, the reference shall be considered to be made to a
- 23 section or other provision of the Immigration and Nation-
- 24 ality Act (8 U.S.C. 1101 et seq.).

1 SEC. 8. DEFINITIONS.

- 2 In this Act:
- 3 (1) Department.—Except as otherwise pro-
- 4 vided, the term "Department" means the Depart-
- 5 ment of Homeland Security.
- 6 (2) Secretary.—Except as otherwise provided,
- 7 the term "Secretary" means the Secretary of Home-
- 8 land Security.

9 SEC. 9. GRANT ACCOUNTABILITY.

- 10 (a) DEFINITIONS.—In this section:
- 11 (1) AWARDING ENTITIES.—The term "awarding
- entities" means the Secretary of Homeland Security,
- the Director of the Federal Emergency Management
- 14 Agency (FEMA), the Chief of the Office of Citizen-
- ship and New Americans, as designated by this Act,
- and the Director of the National Science Founda-
- tion.
- 18 (2) Nonprofit organization.—The term
- 19 "nonprofit organization" means an organization that
- is described in section 501(c)(3) of the Internal Rev-
- 21 enue Code of 1986 and is exempt from taxation
- under section 501(a) of such Code.
- 23 (3) Unresolved audit finding.—The term
- 24 "unresolved audit finding" means a finding in a
- final audit report conducted by the Inspector Gen-
- eral of the Department of Homeland Security, or the

- 1 Inspector General for the National Science Founda-
- 2 tion for grants awarded by the Director of the Na-
- 3 tional Science Foundation, that the audited grantee
- 4 has utilized grant funds for an unauthorized expend-
- 5 iture or otherwise unallowable cost that is not closed
- 6 or resolved within 1 year from the date when the
- 7 final audit report is issued.
- 8 (b) ACCOUNTABILITY.—All grants awarded by
- 9 awarding entities pursuant to this Act shall be subject to
- 10 the following accountability provisions:

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(1) Audit requirement.—

(A) Audits.—Beginning in the first fiscal year beginning after the date of the enactment of this section, and in each fiscal year thereafter, the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, shall conduct audits of recipients of grants under this Act to prevent waste, fraud, and abuse of funds by grantees. The Inspector Generals shall determine the appropriate number of grantees to be audited each year.

1	(B) MANDATORY EXCLUSION.—A recipient
2	of grant funds under this Act that is found to
3	have an unresolved audit finding shall not be el-
4	igible to receive grant funds under this Act dur-
5	ing the first 2 fiscal years beginning after the
6	end of the 1-year period described in subsection
7	(a)(3).
8	(C) Priority.—In awarding grants under
9	this Act, the awarding entities shall give pri-
10	ority to eligible applicants that did not have an
11	unresolved audit finding during the 3 fiscal
12	years before submitting an application for a
13	grant under this Act.
14	(D) REIMBURSEMENT.—If an entity is
15	awarded grant funds under this Act during the
16	2-fiscal-year period during which the entity is
17	barred from receiving grants under subpara-
18	graph (B), the awarding entity shall—
19	(i) deposit an amount equal to the
20	amount of the grant funds that were im-
21	properly awarded to the grantee into the
22	General Fund of the Treasury; and
23	(ii) seek to recoup the costs of the re-
24	payment to the fund from the grant recipi-

1	ent	that	was	erroneously	awarded	grant
2	fund	ls.				

- (2) Nonprofit organization requirements.—
 - (A) PROHIBITION.—An awarding entity may not award a grant under this Act to a non-profit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of the Internal Revenue Code of 1986.
 - (B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this Act and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees, and key employees, shall disclose to the awarding entity, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the awarding entity shall make the information disclosed

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under this subparagraph available for public inspection.

(3) Conference expenditures.—

- (A) LIMITATION.—No amounts authorized to be appropriated to the Department of Homeland Security or the National Science Foundation for grant programs under this Act may be used by an awarding entity or by any individual or entity awarded discretionary funds through a cooperative agreement under this Act to host or support any expenditure for conferences that uses more than \$20,000 in funds made available by the Department of Homeland Security or the National Science Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director of the National Science Foundation, or their designee, provides prior written authorization that the funds may be expended to host the conference.
- (B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

1	(C) Report.—The Deputy Secretary of
2	Homeland Security and the Deputy Director of
3	the National Science Foundation shall submit
4	an annual report to Congress on all conference
5	expenditures approved under this paragraph.
6	(4) Annual Certification.—Beginning in the
7	first fiscal year beginning after the date of the en-
8	actment of this subsection, each awarding entity
9	shall submit to Congress a report—
10	(A) indicating whether—
11	(i) all audits issued by the Offices of
12	the Inspector General under paragraph (1)
13	have been completed and reviewed by the
14	appropriate individuals;
15	(ii) all mandatory exclusions required
16	under paragraph (1)(B) have been issued:
17	and
18	(iii) all reimbursements required
19	under paragraph (1)(D) have been made;
20	and
21	(B) including a list of any grant recipients
22	excluded under paragraph (1) from the previous
23	year.

TITLE I—BORDER SECURITY 1 AND OTHER PROVISIONS 2 **Subtitle A—Border Security** 3 4 SEC. 1101. DEFINITIONS. 5 In this title: 6 (1) NORTHERN BORDER.—The term "Northern border" means the international border between the 7 8 United States and Canada. 9 (2) Rural, High-trafficked areas.—The term "rural, high-trafficked areas" means rural 10 11 areas through which drugs and undocumented aliens 12 are routinely smuggled, as designated by the Com-13 missioner of U.S. Customs and Border Protection. 14 (3) SOUTHERN BORDER.—The term "Southern border" means the international border between the 15 16 United States and Mexico. 17 (4) Southwest Border region.—The term "Southwest border region" means the area in the 18 United States that is within 100 miles of the South-19 20 ern border. 21 SEC. 1102. ADDITIONAL U.S. BORDER PATROL AND U.S. CUS-22 TOMS AND BORDER PROTECTION OFFICERS. 23 (a) U.S. BORDER PATROL.—Not later than September 30, 2021, the Secretary shall increase the number

- 1 of trained full-time active duty U.S. Border Patrol agents
- 2 deployed to the Southern border to 38,405.
- 3 (b) U.S. Customs and Border Protection.—Not
- 4 later than September 30, 2017, the Secretary shall in-
- 5 crease the number of trained U.S. Customs and Border
- 6 Protection officers by 3,500, compared to the number of
- 7 such officers as of the date of the enactment of this Act.
- 8 In allocating any new officers to international land ports
- 9 of entry and high volume international airports, the pri-
- 10 mary goals shall be to increase security and reduce wait
- 11 times of commercial and passenger vehicles at inter-
- 12 national land ports of entry and primary processing wait
- 13 times at high volume international airports by 50 percent
- 14 by fiscal year 2104 and screening all air passengers within
- 15 45 minutes under normal operating conditions or 80 per-
- 16 cent of passengers within 30 minutes by fiscal year 2016.
- 17 The Secretary shall make progress in increasing such
- 18 number of officers during each of the fiscal years 2014
- 19 through 2017.
- 20 (c) Air and Marine Unmanned Aircraft Sys-
- 21 TEMS CREW.—Not later than September 30, 2015, the
- 22 Secretary shall increase the number of trained U.S. Cus-
- 23 toms and Border Protection Air and Marine unmanned
- 24 aircraft systems crew, marine agent, and personnel by 160
- 25 compared to the number of such officers as of the date

1	of the enactment of this Act. The Secretary shall increase
2	and maintain Customs and Border Protection Office of
3	Air and Marine flight hours to 130,000 annually.
4	(d) Construction.—Nothing in subsection (a) may
5	be construed to preclude the Secretary from reassigning
6	or stationing U.S. Customs and Border Protection Offi-
7	cers and U.S. Border Patrol Agents from the Northern
8	border to the Southern border.
9	(e) Funding.—Section 217(h)(3)(B) (8 U.S.C.
10	1187(h)(3)(B)) is amended—
11	(1) in clause (i)—
12	(A) by striking "No later than 6 months
13	after the date of enactment of the Travel Pro-
14	motion Act of 2009, the" and inserting "The";
15	(B) in subclause (I), by striking "and" at
16	the end;
17	(C) by redesignating subclause (II) as sub-
18	clause (III); and
19	(D) by inserting after subclause (I) the fol-
20	lowing:
21	"(II) \$16 for border processing;
22	and";
23	(2) in clause (ii), by striking "Amounts col-
24	lected under clause (i)(II)" and inserting "Amounts
25	collected under clause (i)(II) shall be deposited into

- 1 the Comprehensive Immigration Reform Trust Fund
- established under section 6(a)(1) of the Border Se-
- 3 curity, Economic Opportunity, and Immigration
- 4 Modernization Act, for the purpose of implementing
- 5 section 1102(b) of such Act. Amounts collected
- 6 under clause (i)(III)"; and
- 7 (3) by striking clause (iii).
- 8 (f) Corporation for Travel Promotion.—Sec-
- 9 tion 9(d)(2)(B) of the Travel Promotion Act of 2009 (22)
- 10 U.S.C. 2131(d)(2)(B)) is amended by striking "For each
- 11 of fiscal years 2012 through 2015," and inserting "For
- 12 each fiscal year after 2012,".
- 13 (g) Recruitment of Former Members of the
- 14 ARMED FORCES AND MEMBERS OF RESERVE COMPO-
- 15 NENTS OF THE ARMED FORCES.—
- 16 (1) REQUIREMENT FOR PROGRAM.—The Sec-
- 17 retary, in conjunction with the Secretary of Defense,
- shall establish a program to actively recruit members
- of the reserve components of the Armed Forces and
- former members of the Armed Forces, including the
- 21 reserve components, to serve in United States Cus-
- toms and Border Protection and United States Im-
- 23 migration and Customs Enforcement.
- 24 (2) Recruitment incentives.—

1	(A) STUDENT LOAN REPAYMENTS FOR
2	UNITED STATES BORDER PATROL AGENTS WITH
3	A THREE-YEAR COMMITMENT.—Section 5379(b)
4	of title 5, United States Code, is amended by
5	adding at the end the following new paragraph:
6	"(4) In the case of an employee who is otherwise eligi-
7	ble for benefits under this section and who is serving as
8	a full-time active-duty United States border patrol agent
9	within the Department of Homeland Security—
10	"(A) paragraph (2)(A) shall be applied by sub-
11	stituting '\$20,000' for '\$10,000'; and
12	"(B) paragraph (2)(B) shall be applied by sub-
13	stituting '\$80,000' for '\$60,000'.".
14	(B) RECRUITMENT AND RELOCATION BO-
15	NUSES AND RETENTION ALLOWANCES FOR PER-
16	SONNEL OF THE DEPARTMENT OF HOMELAND
17	SECURITY.—The Secretary of Homeland Secu-
18	rity shall ensure that the authority to pay re-
19	cruitment and relocation bonuses under section
20	5753 of title 5, United States Code, the author-
21	ity to pay retention bonuses under section 5754
22	of such title, and any other similar authorities
23	available under any other provision of law, rule,
24	or regulation, are exercised to the fullest extent

1	allowable in order to encourage service in the
2	Department of Homeland Security.
3	(3) Report on recruitment incentives.—
4	(A) In general.—Not later than 90 days
5	after the date of the enactment of this Act, the
6	Secretary and the Secretary of Defense shall
7	jointly submit to the appropriate committees of
8	Congress a report including an assessment of
9	the desirability and feasibility of offering incen-
10	tives to members of the reserve components of
11	the Armed Forces and former members of the
12	Armed Forces, including the reserve compo-
13	nents, for the purpose of encouraging such
14	members to serve in United States Customs
15	and Border Protection and Immigration and
16	Customs Enforcement.
17	(B) Content.—The report required by
18	subparagraph (A) shall include—
19	(i) a description of various monetary
20	and non-monetary incentives considered for
21	purposes of the report; and
22	(ii) an assessment of the desirability
23	and feasibility of utilizing any such incen-
24	tive.

1	(4) Appropriate committees of congress
2	DEFINED.—The term "appropriate committees of
3	Congress' means—
4	(A) the Committee on Appropriations, the
5	Committee on Armed Services, and the Com-
6	mittee on Homeland Security and Govern-
7	mental Affairs of the Senate; and
8	(B) the Committee on Appropriations, the
9	Committee on Armed Services, and the Com-
10	mittee on Homeland Security of the House of
11	Representatives.
12	(h) Report.—Prior to the hiring and training of ad-
13	ditional U.S. Customs and Border Protection officers
14	under subsection (a), the Secretary shall submit to Con-
15	gress a report on current wait times at land, air, and sea
16	ports of entry, officer staffing at land, air, and sea ports
17	of entry and projections for new officer allocation at land,
18	air, and sea ports of entry designed to implement sub-
19	section (a), including the need to hire non-law enforcement
20	personnel for administrative duties.
21	SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE
22	SOUTHERN BORDER.
23	(a) In General.—With the approval of the Sec-
24	retary of Defense, the Governor of a State may order any
25	unit or personnel of the National Guard of such State to

1	perform operations and missions under section $502(f)$ of
2	title 32, United States Code, in the Southwest Border re-
3	gion for the purposes of assisting U.S. Customs and Bor-
4	der Protection in securing the Southern border.
5	(b) Assignment of Operations and Missions.—
6	(1) In general.—National Guard units and
7	personnel deployed under subsection (a) may be as-
8	signed such operations and missions specified in sub-
9	section (c) as may be necessary to secure the South-
10	ern border.
11	(2) Nature of Duty.—The duty of National
12	Guard personnel performing operations and missions
13	described in paragraph (1) shall be full-time duty
14	under title 32, United States Code.
15	(c) Range of Operations and Missions.—The op-
16	erations and missions assigned under subsection (b) shall
17	include the temporary authority—
18	(1) to construct fencing, including double-layer
19	and triple-layer fencing;
20	(2) to increase ground-based mobile surveillance
21	systems;
22	(3) to deploy additional unmanned aerial sys-
23	tems and manned aircraft sufficient to maintain

continuous surveillance of the Southern border;

1	(4) to deploy and provide capability for radio
2	communications interoperability between U.S. Cus-
3	toms and Border Protection and State, local, and
4	tribal law enforcement agencies;
5	(5) to construct checkpoints along the Southern
6	border to bridge the gap to long-term permanent
7	checkpoints; and
8	(6) to provide assistance to U.S. Customs and
9	Border Protection, particularly in rural, high-traf-
10	ficked areas, as designated by the Commissioner of
11	U.S. Customs and Border Protection.
12	(d) Materiel and Logistical Support.—The
13	Secretary of Defense shall deploy such materiel and equip-
14	ment and logistical support as may be necessary to ensure
15	success of the operations and missions conducted by the
16	National Guard under this section.
17	(e) Exclusion From National Guard Per-
18	SONNEL STRENGTH LIMITATIONS.—National Guard per-
19	sonnel deployed under subsection (a) shall not be included
20	in—
21	(1) the calculation to determine compliance
22	with limits on end strength for National Guard per-
23	sonnel; or
24	(2) limits on the number of National Guard
25	personnel that may be placed on active duty for

1	operational support under section 115 of title 10
2	United States Code.
3	SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY
4	OPERATIONS.
5	(a) Border Crossing Prosecutions.—
6	(1) In general.—From the amounts made
7	available pursuant to the appropriations in para-
8	graph (3), funds shall be made available—
9	(A) to increase the number of border cross-
10	ing prosecutions in the Tucson Sector of the
11	Southwest border region to up to 210 prosecu-
12	tions per day through increasing funding avail-
13	able for—
14	(i) attorneys and administrative sup-
15	port staff in the Office of the United
16	States Attorney for Tucson;
17	(ii) support staff and interpreters in
18	the Office of the Clerk of the Court for
19	Tucson;
20	(iii) pre-trial services;
21	(iv) activities of the Federal Public
22	Defender Office for Tucson; and
23	(v) additional personnel, including
24	Deputy United States Marshals in the
25	United States Marshals Office for Tucson

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

- (B) reimburse Federal, State, local, and tribal law enforcement agencies for any detention costs related to the border crossing prosecutions carried out pursuant to subparagraph (A).
- (2) Additional magistrate judges to assist with increased caseload.—The chief judge of the United States District Court for the District of Arizona is authorized to appoint additional full-time magistrate judges, who, consistent with the Constitution and laws of the United States, shall have the authority to hear cases and controversies in the judicial district in which the respective judges are appointed.
- (3) Funding.—There are authorized to be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this subsection.

22 (b) Operation Stonegarden.—

(1) In General.—The Federal Emergency Management Agency shall enhance law enforcement preparedness and operational readiness along the

1 borders of the United States through Operation 2 Stonegarden. The amounts available under this 3 paragraph are in addition to any other amounts oth-4 erwise made available for Operation Stonegarden. 5 Grants under this subsection shall be allocated based 6 on sector-specific border risk methodology, based on 7 factors including threat, vulnerability, miles of bor-8 der, and other border-specific information. Alloca-9 tions for grants and reimbursements to law enforce-10 ment agencies under this paragraph shall be made 11 by the Federal Emergency Management Agency 12 through a competitive process.

(2) Funding.—There are authorized to be appropriated, from the amounts made available under section 6(a)(3)(A)(i), such sums as may be necessary to carry out this subsection.

(c) Infrastructure Improvements.—

- (1) Border Patrol Stations.—The Secretary shall—
- 20 (A) construct additional Border Patrol sta-21 tions in the Southwest border region that U.S. 22 Border Patrol determines are needed to provide 23 full operational support in rural, high-trafficked 24 areas; and

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1	(B) analyze the feasibility of creating addi-
2	tional Border Patrol sectors along the Southern
3	border to interrupt drug trafficking operations.
4	(2) Forward operating bases.—The Sec-
5	retary shall enhance the security of the Southwest
6	border region by—
7	(A) establishing additional permanent for-
8	ward operating bases for the U.S. Border Pa-
9	trol, as needed;
10	(B) upgrading the existing forward oper-
11	ating bases to include modular buildings, elec-
12	tricity, and potable water; and
13	(C) ensuring that forward operating bases
14	surveil and interdict individuals entering the
15	United States unlawfully immediately after
16	such individuals cross the Southern border.
17	(3) SAFE AND SECURE BORDER INFRASTRUC-
18	TURE.—The Secretary and the Secretary of Trans-
19	portation, in consultation with the governors of the
20	States in the Southwest border region and the
21	Northern border region, shall establish a grant pro-
22	gram, which shall be administered by the Secretary
23	of Transportation and the General Services Adminis-
24	tration, to construct transportation and supporting

infrastructure improvements at existing and new

1	international border crossings necessary to facilitate
2	safe, secure, and efficient cross border movement of
3	people, motor vehicles, and cargo.
4	(4) Authorization of appropriations.—
5	There is authorized to be appropriated for each of
6	fiscal years 2014 through 2018 such sums as may
7	be necessary to carry out this subsection.
8	(d) Additional Permanent District Court
9	JUDGESHIPS IN SOUTHWEST BORDER STATES.—
10	(1) In general.—The President shall appoint,
11	by and with the advice and consent of the Senate—
12	(A) 2 additional district judges for the dis-
13	trict of Arizona;
14	(B) 3 additional district judges for the
15	eastern district of California;
16	(C) 2 additional district judges for the
17	western district of Texas; and
18	(D) 1 additional district judge for the
19	southern district of Texas.
20	(2) Conversions of Temporary District
21	COURT JUDGESHIPS.—The existing judgeships for
22	the district of Arizona and the central district of
23	California authorized by section 312(c) of the 21st
24	Century Department of Justice Appropriations Au-
25	thorization Act (28 U.S.C. 133 note; Public Law

1	107–273; 116 Stat. 1788), as of the effective date
2	of this Act, shall be authorized under section 133 of
3	title 28, United States Code, and the incumbents in
4	those offices shall hold the office under section 133
5	of title 28, United States Code, as amended by this
6	Act.
7	(3) Technical and conforming amend-
8	MENTS.—The table contained in section 133(a) of
9	title 28, United States Code, is amended—
10	(A) by striking the item relating to the dis-
11	trict of Arizona and inserting the following:
	"Arizona
12	(B) by striking the item relating to Cali-
13	fornia and inserting the following:
	"California: Northern 14 Eastern 9 Central 28 Southern 13"; and
14	(C) by striking the item relating to Texas
15	and inserting the following:
	"Texas: 12 Northern 20 Southern 7 Western 15".
16	(4) Increase in filing fees.—

- 1 (A) IN GENERAL.—Section 1914(a) of title 2 28, United States Code, is amended by striking 3 "\$350" and inserting "\$360".
 - (B) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enactment of this paragraph shall be deposited as offsetting receipts in the "Judiciary Filing Fee" special fund of the Treasury established under section 1931 of title 28, United States Code. Such amounts shall be available solely for the purpose of facilitating the processing of civil cases, but only to the extent specifically appropriated by an Act of Congress enacted after the date of the enactment of this Act.

(5) Whistleblower protection.—

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

1	or misconduct, by a judge, justice, or any other
2	employee in the judicial branch, which may as-
3	sist in the investigation of the possible violation
4	or misconduct.
5	(B) CIVIL ACTION.—An employee injured
6	by a violation of subparagraph (A) may, in a
7	civil action, obtain appropriate relief.
8	SEC. 1105. BORDER SECURITY ON CERTAIN FEDERAL LAND
9	(a) Definitions.—In this section:
10	(1) FEDERAL LANDS.—The term "Federal
11	lands" includes all land under the control of the Sec-
12	retary concerned that is located within the South-
13	west border region in the State of Arizona along the
14	international border between the United States and
15	Mexico.
16	(2) Secretary concerned.—The term "Sec-
17	retary concerned" means—
18	(A) with respect to land under the jurisdic-
19	tion of the Secretary of Agriculture, the Sec-
20	retary of Agriculture; and
21	(B) with respect to land under the jurisdic-
22	tion of the Secretary of the Interior, the Sec-
23	retary of the Interior.
24	(b) Support for Border Security Needs.—To
25	achieve effective control of Federal lands—

1	(1) the Secretary concerned, notwithstanding
2	any other provision of law, shall authorize and pro-
3	vide U.S. Customs and Border Protection personnel
4	with immediate access to Federal lands for security
5	activities, including—
6	(A) routine motorized patrols; and
7	(B) the deployment of communications,
8	surveillance, and detection equipment;
9	(2) the security activities described in para-
10	graph (1) shall be conducted, to the maximum ex-
11	tent practicable, in a manner that the Secretary de-
12	termines will best protect the natural and cultural
13	resources on Federal lands; and
14	(3) the Secretary concerned may provide edu-
15	cation and training to U.S. Customs and Border
16	Protection personnel on the natural and cultural re-
17	sources present on individual Federal land units.
18	(e) Programmatic Environmental Impact
19	STATEMENT.—
20	(1) In General.—After implementing sub-
21	section (b), the Secretary, in consultation with the
22	Secretaries concerned, shall prepare and publish in
23	the Federal Register a notice of intent to prepare a
24	programmatic environmental impact statement in
25	accordance with the National Environmental Policy

- 1 Act of 1969 (42 U.S.C. 4321 et seq.) to analyze the 2 impacts of the activities described in subsection (b). 3 (2) Effect on processing application and
 - (2) EFFECT ON PROCESSING APPLICATION AND SPECIAL USE PERMITS.—The pending completion of a programmatic environmental impact statement under this section shall not result in any delay in the processing or approving of applications or special use permits by the Secretaries concerned for the activities described in subsection (b).
 - (3) AMENDMENT OF LAND USE PLANS.—The Secretaries concerned shall amend any land use plans, as appropriate, upon completion of the programmatic environmental impact statement described in subsection (b).
 - (4) Scope of programmatic environmental impact statement described in paragraph (1)—
 - (A) may be used to advise the Secretary on the impact on natural and cultural resources on Federal lands; and
 - (B) shall not control, delay, or restrict actions by the Secretary to achieve effective control on Federal lands.

1	(d) Intermingled State and Private Land.—
2	This section shall not apply to any private or State-owned
3	land within the boundaries of Federal lands.
4	SEC. 1106. EQUIPMENT AND TECHNOLOGY.
5	(a) Enhancements.—The Commissioner of U.S.
6	Customs and Border Protection, working through U.S.
7	Border Patrol, shall—
8	(1) deploy additional mobile, video, and agent-
9	portable surveillance systems, and unarmed, un-
10	manned aerial vehicles in the Southwest border re-
11	gion as necessary to provide 24-hour operation and
12	surveillance;
13	(2) operate unarmed unmanned aerial vehicles
14	along the Southern border for 24 hours per day and
15	for 7 days per week;
16	(3) deploy unarmed additional fixed-wing air-
17	craft and helicopters along the Southern border;
18	(4) acquire new rotorcraft and make upgrades
19	to the existing helicopter fleet;
20	(5) increase horse patrols in the Southwest bor-
21	der region; and
22	(6) acquire and deploy watercraft and other
23	equipment to provide support for border-related
24	maritime anti-crime activities.
25	(b) Limitation.—

- 93 1 (1) In General.—Notwithstanding paragraphs 2 (1) and (2) of subsection (a), and except as provided 3 in paragraph (2), U.S. Border Patrol may not operate unarmed, unmanned aerial vehicles in the San Diego and El Centro Sectors, except within 3 miles 5 6 of the Southern border. 7 (2) Exception.—The limitation under this 8 subsection shall not restrict the maritime operations 9 of U.S. Customs and Border Protection.
- 10 (c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, 12 there is authorized to be appropriated to U.S. Customs 13 and Border Protection such sums as may be necessary to 14 carry out subsection (a) during fiscal years 2014 through 15 2018.

SEC. 1107. ACCESS TO EMERGENCY PERSONNEL.

- 17 (a) Southwest Border Region Emergency Com-18 MUNICATIONS GRANTS.—
- 19 (1) In General.—The Secretary, in consulta-20 tion with the governors of the States in the South-21 west border region, shall establish a 2-year grant 22 program, to be administered by the Secretary, to im-23 prove emergency communications in the Southwest 24 border region.

1	(2) Eligibility for grants.—An individual
2	is eligible to receive a grant under this subsection if
3	the individual demonstrates that he or she—
4	(A) regularly resides or works in the
5	Southwest border region;
6	(B) is at greater risk of border violence
7	due to the lack of cellular service at his or her
8	residence or business and his or her proximity
9	to the Southern border.
10	(3) Use of grants.—Grants awarded under
11	this subsection may be used to purchase satellite
12	telephone communications systems and service
13	that—
14	(A) can provide access to 9–1–1 service;
15	and
16	(B) are equipped with global positioning
17	systems.
18	(4) Authorization of appropriations.—
19	There is authorized to be appropriated such sums as
20	may be necessary to carry out the grant program es-
21	tablished under this subsection.
22	(b) Interoperable Communications for Law
23	Enforcement.—
24	(1) FEDERAL LAW ENFORCEMENT.—There are
25	authorized to be appropriated, to the Department,

the Department of Justice, and the Department of the Interior, during the 5-year period beginning on the date of the enactment of this Act, such sums as may be necessary—

(A) to purchase, through a competitive procurement process, P25-compliant radios, which may include a multi-band option, for Federal law enforcement agents working in the Southwest border region in support of the activities of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including law enforcement agents of the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of the Interior, and the Forest Service; and

(B) to upgrade, through a competitive procurement process, the communications network of the Department of Justice to ensure coverage and capacity, particularly when immediate access is needed in times of crisis, in the Southwest Border region for appropriate law enforcement personnel of the Department of Justice (including the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives), the Department (including U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection), the United States Marshals Service, other Federal agencies, the State of Arizona, tribes, and local governments.

(2) STATE AND LOCAL LAW ENFORCEMENT.—

- (A) Authorization of appropriated to the Department of Justice, during the 5-year period beginning on the date of the enactment of this Act, such sums as may be necessary to purchase, through a competitive procurement process, P25-compliant radios, which may include a multi-band option, for State and local law enforcement agents working in the Southwest border region.
- (B) Access to federal spectrum.—If a State, tribal, or local law enforcement agency in the Southwest border region experiences an emergency situation that necessitates immediate communication with the Department of Justice, the Department, the Department of the Interior, or any of their respective subagencies, such law enforcement agency shall have access

1	to the spectrum assigned to such Federal agen-
2	cy for the duration of such emergency situation.
3	(c) Distress Beacons.—
4	(1) In general.—The Commissioner of U.S.
5	Customs and Border Protection, working through
6	U.S. Border Patrol, shall—
7	(A) identify areas near the Northern bor-
8	der and the Southern border where migrant
9	deaths are occurring due to climatic and envi-
10	ronmental conditions; and
11	(B) deploy up to 1,000 beacon stations in
12	the areas identified pursuant to subparagraph
13	(A).
14	(2) Features.—Beacon stations deployed pur-
15	suant to paragraph (1) should—
16	(A) include a self-powering mechanism,
17	such as a solar-powered radio button, to signal
18	U.S. Border Patrol personnel or other emer-
19	gency response personnel that a person at that
20	location is in distress;
21	(B) include a self-powering cellular phone
22	relay limited to 911 calls to allow persons in
23	distress in the area who are unable to get to the
24	beacon station to signal their location and ac-
25	cess emergency personnel; and

1	(C) be movable to allow U.S. Border Pa-
2	trol to relocate them as needed—
3	(i) to mitigate migrant deaths;
4	(ii) to facilitate access to emergency
5	personnel; and
6	(iii) to address any use of the beacons
7	for diversion by criminals.
8	SEC. 1108. SOUTHWEST BORDER REGION PROSECUTION
9	INITIATIVE.
10	(a) Reimbursement to State and Local Pros-
11	ECUTORS FOR FEDERALLY INITIATED CRIMINAL
12	Cases.—The Attorney General shall reimburse State,
13	county, tribal, and municipal governments for costs associ-
14	ated with the prosecution, pretrial services and detention,
15	clerical support, and public defenders' services associated
16	with the prosecution of federally initiated immigration-re-
17	lated criminal cases declined by local offices of the United
18	States Attorneys.
19	(b) Exception.—Reimbursement under subsection
20	(a) shall not be available, at the discretion of the Attorney
21	General, if the Attorney General determines that there is
22	reason to believe that the jurisdiction seeking reimburse-
23	ment has engaged in unlawful conduct in connection with
24	immigration-related apprehensions.

1	(c) Authorization of Appropriations.—There is
2	authorized to be appropriated such sums as may be nec-
3	essary to carry out subsection (a) during fiscal years 2014
4	through 2018.
5	SEC. 1109. INTERAGENCY COLLABORATION.
6	The Assistant Secretary of Defense for Research and
7	Engineering shall collaborate with the Under Secretary of
8	Homeland Security for Science and Technology to identify
9	equipment and technology used by the Department of De-
10	fense that could be used by U.S. Customs and Border Pro-
11	tection to improve the security of the Southern border
12	by—
13	(1) detecting border tunnels;
14	(2) detecting the use of ultralight aircraft;
15	(3) enhancing wide aerial surveillance; and
16	(4) otherwise improving the enforcement of
17	such border.
18	SEC. 1110. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.
19	(a) SCAAP REAUTHORIZATION.—Section
20	241(i)(5)(C) (8 U.S.C. 1231(i)(5)) is amended by striking
21	"2011." and inserting "2015.".
22	(b) SCAAP Assistance for States.—
23	(1) Assistance for states incarcerating
24	UNDOCUMENTED ALIENS CHARGED WITH CERTAIN
25	CRIMES.—Section 241(i)(3)(A) (8 U.S.C.

1	1231(i)(3)(A)) is amended by inserting "charged
2	with or" before "convicted".
3	(2) Assistance for states incarcerating
4	UNVERIFIED ALIENS.—Section 241(i) (8 U.S.C.
5	1231(i)), as amended by subsection (a), is further
6	amended—
7	(A) by redesignating paragraphs (4), (5),
8	and (6), as paragraphs (5), (6), and (7), re-
9	spectively;
10	(B) in paragraph (7), as so redesignated,
11	by striking "(5)" and inserting "(6)"; and
12	(C) by adding after paragraph (3) the fol-
13	lowing:
14	"(4) In the case of an alien whose immigration
15	status is unable to be verified by the Secretary of
16	Homeland Security, and who would otherwise be an
17	undocumented criminal alien if the alien is unlaw-
18	fully present in the United States, the Attorney Gen-
19	eral shall compensate the State or political subdivi-
20	sion of the State for incarceration of the alien, con-
21	sistent with subsection (i)(2).".
22	SEC. 1111. USE OF FORCE.
23	Not later than 180 days after the date of the enact-
24	ment of this Act, the Secretary, in consultation with the
25	Assistant Attorney General for the Civil Rights Division

1	of the Department of Justice, shall issue policies gov-
2	erning the use of force by all Department personnel that—
3	(1) require all Department personnel to report
4	each use of force; and
5	(2) establish procedures for—
6	(A) accepting and investigating complaints
7	regarding the use of force by Department per-
8	sonnel;
9	(B) disciplining Department personnel who
10	violate any law or Department policy relating to
11	the use of force; and
12	(C) reviewing all uses of force by Depart-
13	ment personnel to determine whether the use of
14	force—
15	(i) complied with Department policy;
16	or
17	(ii) demonstrates the need for changes
18	in policy, training, or equipment.
19	SEC. 1112. TRAINING FOR BORDER SECURITY AND IMMI-
20	GRATION ENFORCEMENT OFFICERS.
21	(a) In General.—The Secretary shall ensure that
22	U.S. Customs and Border Protection officers, U.S. Border
23	Patrol agents, U.S. Immigration and Customs Enforce-
24	ment officers and agents, United States Air and Marine
25	Division agents, and agriculture specialists stationed with-

1	in 100 miles of any land or marine border of the United
2	States or at any United States port of entry receive appro-
3	priate training, which shall be prepared in collaboration
4	with the Assistant Attorney General for the Civil Rights
5	Division of the Department of Justice, in—
6	(1) identifying and detecting fraudulent trave
7	documents;
8	(2) civil, constitutional, human, and privacy
9	rights of individuals;
10	(3) the scope of enforcement authorities, includ-
11	ing interrogations, stops, searches, seizures, arrests
12	and detentions;
13	(4) the use of force policies issued by the Sec-
14	retary pursuant to section 1111;
15	(5) immigration laws, including screening, iden-
16	tifying, and addressing vulnerable populations, such
17	as children, victims of crime and human trafficking
18	and individuals fleeing persecution or torture;
19	(6) social and cultural sensitivity toward border
20	communities;
21	(7) the impact of border operations on commu-
22	nities; and
23	(8) any particular environmental concerns in a
24	particular area.

1	(b) Training for Border Community Liaison
2	Officers.—The Secretary shall ensure that border com-
3	munities liaison officers in Border Patrol sectors along the
4	international borders between the United States and Mex-
5	ico and between the United States and Canada receive
6	training to better—
7	(1) act as a liaison between border communities
8	and the Office for Civil Rights and Civil Liberties of
9	the Department and the Civil Rights Division of the
10	Department of Justice;
11	(2) foster and institutionalize consultation with
12	border communities;
13	(3) consult with border communities on Depart-
14	ment programs, policies, strategies, and directives
15	and
16	(4) receive Department performance assess-
17	ments from border communities.
18	(c) Humane Conditions of Confinement for
19	CHILDREN IN U.S. CUSTOMS AND BORDER PROTECTION
20	CUSTODY.—Not later than 90 days after the date of the
21	enactment of this Act, the Secretary shall establish stand-
22	ards to ensure that children in the custody of U.S. Cus-
2	toma and Pandan Protection

1	(1) are afforded adequate medical and mental
2	health care, including emergency medical and mental
3	health care, when necessary;
4	(2) receive adequate nutrition;
5	(3) are provided with climate-appropriate cloth-
6	ing, footwear, and bedding;
7	(4) have basic personal hygiene and sanitary
8	products; and
9	(5) are permitted to make supervised phone
10	calls to family members.
11	SEC. 1113. DEPARTMENT OF HOMELAND SECURITY BOR-
12	DER OVERSIGHT TASK FORCE.
12 13	DER OVERSIGHT TASK FORCE. (a) Establishment.—
13	(a) Establishment.—
13 14	(a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an inde-
13 14 15	(a) Establishment.— (1) In general.—There is established an independent task force, which shall be known as the De-
13 14 15 16	(a) Establishment.— (1) In General.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight
13 14 15 16	(a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the "DHS"
113 114 115 116 117	(a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the "DHS Task Force").
13 14 15 16 17 18	 (a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the "DHS Task Force"). (2) DUTIES.—The DHS Task Force shall—
13 14 15 16 17 18 19 20	 (a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the "DHS Task Force"). (2) DUTIES.—The DHS Task Force shall— (A) review and make recommendations re-
13 14 15 16 17 18 19 20 21	 (a) ESTABLISHMENT.— (1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the "DHS Task Force"). (2) DUTIES.—The DHS Task Force shall— (A) review and make recommendations regarding immigration and border enforcement

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1	(B) recommend ways in which the Border
2	Communities Liaison Offices can strengthen re-
3	lations and collaboration between communities
4	in the border regions and the Department, the
5	Department of Justice, and other Federal agen-
6	cies that carry out such policies, strategies, and
7	programs;
8	(C) evaluate how the policies, strategies,
9	and programs of Federal agencies operating
10	along the international borders between the

- along the international borders between the United States and Mexico and between the United States and Canada protect the due process, civil, and human rights of border residents, visitors, and migrants at and near such borders; and
- (D) evaluate and make recommendations regarding the training of border enforcement personnel described in section 1112.

(3) Membership.—

(A) IN GENERAL.—The DHS Task Force shall be composed of 33 members, appointed by the President, who have expertise in migration, local crime indices, civil and human rights, community relations, cross-border trade and

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1	commerce, quality of life indicators, or other
2	pertinent experience, of whom—
3	(i) 14 members shall be from the
4	Northern border region and shall include—
5	(I) 2 local government elected of-
6	ficials;
7	(II) 2 local law enforcement offi-
8	cials;
9	(III) 2 tribal government offi-
10	cials;
11	(IV) 2 civil rights advocates;
12	(V) 1 business representative;
13	(VI) 1 higher education rep-
14	resentative;
15	(VII) 1 private land owner rep-
16	resentative;
17	(VIII) 1 representative of a faith
18	community; and
19	(IX) 2 representatives of U.S.
20	Border Patrol; and
21	(ii) 19 members shall be from the
22	Southern border region and include—
23	(I) 3 local government elected of-
24	ficials;

1	(II) 3 local law enforcement offi-
2	cials; (aa)
3	(III) 2 tribal government offi-
4	cials;
5	(IV) 3 civil rights advocates;
6	(V) 2 business representatives;
7	(VI) 1 higher education rep-
8	resentative;
9	(VII) 2 private land owner rep-
10	resentatives;
11	(VIII) 1 representative of a faith
12	community; and
13	(IX) 2 representatives of U.S.
14	Border Patrol.
15	(B) TERM OF SERVICE.—Members of the
16	Task Force shall be appointed for the shorter
17	of—
18	(i) 3 years; or
19	(ii) the life of the DHS Task Force.
20	(C) CHAIR, VICE CHAIR.—The members of
21	the DHS Task Force shall elect a Chair and a
22	Vice Chair from among its members, who shall
23	serve in such capacities for the life of the DHS
24	Task Force or until removed by the majority
25	vote of at least 16 members.

1 (b) Operations.—

- (1) Hearings.—The DHS Task Force may, for the purpose of carrying out its duties, hold hearings, sit and act, take testimony, receive evidence, and administer oaths.
 - (2) RECOMMENDATIONS.—The DHS Task Force may make findings or recommendations to the Secretary related to the duties described in subsection (a)(2).
 - (3) Response.—Not later than 180 days after receiving the findings and recommendations from the DHS Task Force under paragraph (2), the Secretary shall issue a response that describes how the Department has addressed, or will address, such findings and recommendations. If the Secretary disagrees with any finding of the DHS Task Force, the Secretary shall provide an explanation for the disagreement.
 - (4) Information from federal agencies.—
 The Chair, or 16 members of the DHS Task Force,
 may request statistics relating to the duties described in subsection (a)(2) directly from any Federal agency, which shall, to the extent authorized by
 law, furnish such information, suggestions, esti-

1	mates, and statistics directly to the DHS Task
2	Force.
3	(5) Compensation.—Members of the DHS
4	Task Force shall serve without pay, but shall be re-
5	imbursed for reasonable travel and subsistence ex-
6	penses incurred in the performance of their duties.
7	(c) Report.—Not later than 2 years after its first
8	meeting, the DHS Task Force shall submit a final report
9	to the President, Congress, and the Secretary that con-
10	tains—
11	(1) findings with respect to the duties of the
12	DHS Task Force; and
13	(2) recommendations regarding border and im-
14	migration enforcement policies, strategies, and pro-
15	grams, including—
16	(A) a recommendation as to whether the
17	DHS Task Force should continue to operate;
18	and
19	(B) a description of any duties for which
20	the DHS Task Force should be responsible
21	after the termination date described in sub-
22	section (e).
23	(d) Authorization of Appropriations.—There
24	are authorized to be appropriated such sums as may be

- 1 necessary to carry out this section for each of the fiscal
- 2 years 2014 through 2017.
- 3 (e) Sunset.—The DHS Task Force shall terminate
- 4 operations 60 days after the date on which the DHS Task
- 5 Force submits the report described in subsection (c).
- 6 SEC. 1114. OMBUDSMAN FOR IMMIGRATION RELATED CON-
- 7 CERNS OF THE DEPARTMENT OF HOMELAND
- 8 SECURITY.
- 9 (a) Establishment.—Title I of the Homeland Se-
- 10 curity Act of 2002 (6 U.S.C. 111 et seq.) is amended by
- 11 adding at the end the following new section:
- 12 "SEC. 104. OMBUDSMAN FOR IMMIGRATION RELATED CON-
- 13 CERNS.
- 14 "(a) IN GENERAL.—There shall be within the De-
- 15 partment an Ombudsman for Immigration Related Con-
- 16 cerns (in this section referred to as the 'Ombudsman').
- 17 The individual appointed as Ombudsman shall have a
- 18 background in immigration law as well as civil and human
- 19 rights law. The Ombudsman shall report directly to the
- 20 Deputy Secretary.
- 21 "(b) Functions.—The functions of the Ombudsman
- 22 shall be as follows:
- "(1) To receive and resolve complaints from in-
- 24 dividuals and employers and assist in resolving prob-

1	lems with the immigration components of the De-
2	partment.
3	"(2) To conduct inspections of the facilities or
4	contract facilities of the immigration components of
5	the Department.
6	"(3) To assist individuals and families who
7	have been the victims of crimes committed by aliens
8	or violence near the United States border.
9	"(4) To identify areas in which individuals and
10	employers have problems in dealing with the immi-
11	gration components of the Department.
12	"(5) To the extent practicable, to propose
13	changes in the administrative practices of the immi-
14	gration components of the Department to mitigate
15	problems identified under paragraph (4).
16	"(6) To review, examine, and make rec-
17	ommendations regarding the immigration and en-
18	forcement policies, strategies, and programs of U.S.

Immigration Services.

"(c) OTHER RESPONSIBILITIES.—In addition to the functions specified in subsection (b), the Ombudsman shall—

Customs and Border Protection, U.S. Immigration

and Customs Enforcement, and U.S. Citizenship and

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1 "(1) monitor the coverage and geographic al	llo-
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- 2 cation of local offices of the Ombudsman, including
- appointing a local ombudsman for immigration re-
- 4 lated concerns; and
- 5 "(2) evaluate and take personnel actions (in-
- 6 cluding dismissal) with respect to any employee of
- 7 the Ombudsman.
- 8 "(d) Request for Investigations.—The Ombuds-
- 9 man shall have the authority to request the Inspector Gen-
- 10 eral of the Department of Homeland Security to conduct
- 11 inspections, investigations, and audits.
- 12 "(e) Coordination With Department Compo-
- 13 NENTS.—The Director of U.S. Citizenship and Immigra-
- 14 tion Services, the Assistant Secretary of Immigration and
- 15 Customs Enforcement, and the Commissioner of Customs
- 16 and Border Protection shall each establish procedures to
- 17 provide formal responses to recommendations submitted
- 18 to such official by the Ombudsman.
- 19 "(f) Annual Reports.—Not later than June 30 of
- 20 each year, the Ombudsman shall submit a report to the
- 21 Committee on the Judiciary of the Senate and the Com-
- 22 mittee on the Judiciary of the House of Representatives
- 23 on the objectives of the Ombudsman for the fiscal year
- 24 beginning in such calendar year. Each report shall contain
- 25 full and substantive analysis, in addition to statistical in-

- 1 formation, and shall set forth any recommendations the
- 2 Ombudsman has made on improving the services and re-
- 3 sponsiveness of U.S. Citizenship and Immigration Serv-
- 4 ices, U.S. Immigration and Customs Enforcement, and
- 5 U.S. Customs and Border Protection and any responses
- 6 received from the Department regarding such rec-
- 7 ommendations.".
- 8 (b) Repeal of Superseded Authority.—Section
- 9 452 of the Homeland Security Act of 2002 (6 U.S.C. 272)
- 10 is repealed.
- 11 (c) CLERICAL AMENDMENTS.—The table of contents
- 12 for the Homeland Security Act of 2002 is amended—
- 13 (1) by inserting after the item relating to sec-
- tion 103 the following new item:

"Sec. 104. Ombudsman for Immigration Related Concerns."; and

- 15 (2) by striking the item relating to section 452.
- 16 SEC. 1115. PROTECTION OF FAMILY VALUES IN APPREHEN-
- 17 SION PROGRAMS.
- 18 (a) Definitions.—In this section:
- 19 (1) APPREHENDED INDIVIDUAL.—The term
- 20 "apprehended individual" means an individual ap-
- 21 prehended by personnel of the Department of Home-
- land Security or of a cooperating entity pursuant to
- a migration deterrence program carried out at a bor-
- der.

1	(2) Border.—The term "border" means an
2	international border of the United States.
3	(3) Child.—Except as otherwise specifically
4	provided, the term "child" has the meaning given to
5	the term in section 101(b)(1) of the Immigration
6	and Nationality Act (8 U.S.C. 1101(b)(1)).
7	(4) Cooperating entity.—The term "cooper-
8	ating entity" means a State or local entity acting
9	pursuant to an agreement with the Secretary.
10	(5) Migration Deterrence Program.—The
11	term "migration deterrence program" means an ac-
12	tion related to the repatriation or referral for pros-
13	ecution of 1 or more apprehended individuals for a
14	suspected or confirmed violation of the Immigration
15	and Nationality Act (8 U.S.C. 1001 et seq.) by the
16	Secretary or a cooperating entity.
17	(b) Procedures for Migration Deterrence
18	Programs at the Border.—
19	(1) Procedures.—In any migration deterrence
20	program carried out at a border, the Secretary and
21	cooperating entities shall for each apprehended indi-
22	vidual—
23	(A) as soon as practicable after such indi-
24	vidual is apprehended—

1	(i) inquire as to whether the appre-
2	hended individual is—
3	(I) a parent, legal guardian, or
4	primary caregiver of a child; or
5	(II) traveling with a spouse or
6	child; and
7	(ii) ascertain whether repatriation of
8	the apprehended individual presents any
9	humanitarian concern or concern related to
10	such individual's physical safety; and
11	(B) ensure that, with respect to a decision
12	related to the repatriation or referral for pros-
13	ecution of the apprehended individual, due con-
14	sideration is given—
15	(i) to the best interests of such indi-
16	vidual's child, if any;
17	(ii) to family unity whenever possible;
18	and
19	(iii) to other public interest factors,
20	including humanitarian concerns and con-
21	cerns related to the apprehended individ-
22	ual's physical safety.
23	(c) Mandatory Training.—The Secretary, in con-
24	sultation with the Secretary of Health and Human Serv-
25	ices, the Attorney General, the Secretary of State, and

- 1 independent immigration, child welfare, family law, and
- 2 human rights law experts, shall—
- 3 (1) develop and provide specialized training for
- 4 all personnel of U.S. Customs and Border Protection
- 5 and cooperating entities who come into contact with
- 6 apprehended individuals in all legal authorities, poli-
- 7 cies, and procedures relevant to the preservation of
- 8 a child's best interest, family unity, and other public
- 9 interest factors, including those described in this
- 10 Act; and
- 11 (2) require border enforcement personnel to un-
- dertake periodic and continuing training on best
- practices and changes in relevant legal authorities,
- policies, and procedures pertaining to the preserva-
- tion of a child's best interest, family unity, and other
- public interest factors, including those described in
- this Act.
- 18 (d) Annual Report on the Impact of Migration
- 19 DETERRENCE PROGRAMS AT THE BORDER.—
- 20 (1) Requirement for annual report.—Not
- 21 later than 1 year after the date of the enactment of
- this Act, and annually thereafter, the Secretary shall
- submit to Congress a report that describes the im-
- pact of migration deterrence programs on parents,
- legal guardians, primary caregivers of a child, indi-

1	viduals traveling with a spouse or child, and individ-
2	uals who present humanitarian considerations or
3	concerns related to the individual's physical safety
4	(2) Contents.—Each report submitted under
5	paragraph (1) shall include for the previous 1-year
6	period an assessment of—
7	(A) the number of apprehended individuals
8	removed, repatriated, or referred for prosecu-
9	tion who are the parent, legal guardian, or pri-
10	mary caregiver of a child who is a citizen of the
11	United States;
12	(B) the number of occasions in which both
13	parents, or the primary caretaker of such a
14	child was removed, repatriated, or referred for
15	prosecution as part of a migration deterrence
16	program;
17	(C) the number of apprehended individuals
18	traveling with close family members who are re-
19	moved, repatriated, or referred for prosecution
20	(D) the impact of migration deterrence
21	programs on public interest factors, including
22	humanitarian concerns and physical safety.
23	(e) REGULATIONS.—Not later than 120 days after
24	the date of the enactment of this Act, the Secretary shall
25	promulgate regulations to implement this section.

1	SEC. 1116. OVERSIGHT OF POWER TO ENTER PRIVATE
2	LAND AND STOP VEHICLES WITHOUT A WAR-
3	RANT AT THE NORTHERN BORDER.
4	(a) In General.—Section 287(a) (8 U.S.C.
5	1357(a)) is amended—
6	(1) in paragraph (5), by redesignating subpara-
7	graphs (A) and (B) as clauses (i) and (ii), respec-
8	tively;
9	(2) by redesignating paragraphs (1) through
10	(3) as subparagraphs (A) through (C), respectively;
11	(3) by redesignating paragraphs (4) and (5) as
12	subparagraphs (F) and (G), respectively;
13	(4) in the matter preceding subparagraph (A),
14	as so redesignated—
15	(A) by inserting "(1)" before "Any offi-
16	cer'';
17	(B) by striking "Service" and inserting
18	"Department of Homeland Security"; and
19	(C) by striking "Attorney General" and in-
20	serting "Secretary of Homeland Security";
21	(5) in paragraph (1)(C), as so redesignated, by
22	inserting the following at the beginning: "except as
23	provided in subparagraphs (D) and (E),";
24	(6) by inserting after paragraph (1)(C) the fol-
25	lowing.

"(D) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 25 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;

"(E) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 10 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;";

(7) by inserting after the flush text at the end of subparagraph (F), as so redesignated, the following:

- 1 "(2)(A)(i) The Secretary of Homeland Security may
- 2 establish for a Northern border sector or district a dis-
- 3 tance less than or greater than 25 air miles, but in no
- 4 case greater than 100 air miles, as the maximum distance
- 5 from the Northern border in which the authority described
- 6 in paragraph (1)(C) may be exercised, if the Secretary cer-
- 7 tifies that such a distance is necessary for the purpose
- 8 of patrolling the Northern border to prevent the illegal
- 9 entry of aliens into the United States, and justified by the
- 10 considerations listed in subparagraph (B).
- 11 "(ii) The Secretary of Homeland Security may estab-
- 12 lish for a Northern border sector or district a distance less
- 13 than or greater than 10 air miles, but in no case greater
- 14 than 25 air miles, as the maximum distance from the
- 15 Northern border of the United States in which the author-
- 16 ity described in paragraph (1)(D) may be exercised, if the
- 17 Secretary certifies that such a distance is necessary for
- 18 the purpose of patrolling the Northern border to prevent
- 19 the illegal entry of aliens into the United States, and justi-
- 20 field by the considerations listed in subparagraph (B).
- 21 "(B) In making the certifications described in sub-
- 22 paragraph (A), the Secretary shall consider, as appro-
- 23 priate, land topography, confluence of arteries of transpor-
- 24 tation leading from external boundaries, density of popu-
- 25 lation, possible inconvenience to the traveling public, types

- 1 of conveyances used, reliable information as to movements
- 2 of persons effecting illegal entry into the United States,
- 3 effects on private property and quality of life for relevant
- 4 communities and residents, consultations with affected
- 5 State, local, and tribal governments, including the gov-
- 6 ernor of any relevant State, and other factors that the Sec-
- 7 retary considers appropriate.
- 8 "(C) A certification made under subparagraph (A)
- 9 shall be valid for a period of 5 years and may be renewed
- 10 for additional 5-year periods. If the Secretary finds at any
- 11 time that circumstances no longer justify a certification,
- 12 the Secretary shall terminate the certification.
- 13 "(D) The Secretary shall report annually to the Com-
- 14 mittee on the Judiciary and Committee on Homeland Se-
- 15 curity and Governmental Affairs of the Senate and the
- 16 Committee on the Judiciary and Committee on Homeland
- 17 Security of the House of Representatives the number of
- 18 certifications made under subparagraph (A), and for each
- 19 such certification, the Northern border sector or district
- 20 and reasonable distance prescribed, the period of time the
- 21 certification has been in effect, and the factors justifying
- 22 the certification.".
- 23 (b) Technical and Conforming Amendments.—
- 24 (1) Authorities without a warrant.—In
- section 287(a) (8 U.S.C. 1357(a)), the undesignated

1	matter following paragraph (2), as added by sub-
2	section (a)(5), is amended—
3	(A) by inserting "(3)" before "Under regu-
4	lations";
5	(B) by striking "paragraph (5)(B)" both
6	places that term appears and inserting "sub-
7	paragraph (F)(ii)";
8	(C) by striking "(i)" and inserting "(A)";
9	(D) by striking "(ii) establish" and insert-
10	ing "(B) establish";
11	(E) by striking "(iii) require" and insert-
12	ing "(C) require"; and
13	(F) by striking "clause (ii), and (iv)" and
14	inserting "subparagraph (B), and (D)".
15	(2) Conforming Amendment.—Section
16	287(e) (8 U.S.C. 1357(e)) is amended by striking
17	"paragraph (3) of subsection (a)," and inserting
18	"subsection (a)(1)(D),".
19	SEC. 1117. REPORTS.
20	(a) Report on Certain Border Matters.—The
21	Secretary shall submit a report to the Committee on
22	Homeland Security and Governmental Affairs of the Sen-
23	ate, the Committee on Homeland Security of the House
24	of Representatives, the Committee on the Judiciary of the

I	Senate, and the Committee on the Judiciary of the House
2	of Representatives that sets forth—
3	(1) the effectiveness rate (as defined in section
4	2(a)(4)) for each Border Patrol sector along the
5	Northern border and the Southern border;
6	(2) the number of miles along the Southern
7	border that are under persistent surveillance;
8	(3) the monthly wait times per passenger, in-
9	cluding data on averages and peaks, for crossing the
10	Northern border and the Southern border, and the
11	staffing of such border crossings;
12	(4) the allocations at each port of entry along
13	the Northern border and the Southern border; and
14	(5) the number of migrant deaths occurring
15	near the Northern border and the Southern border
16	and the efforts that have been undertaken to miti-
17	gate such deaths.
18	(b) Report on Interagency Collaboration.—
19	The Under Secretary of Defense for Acquisition, Tech-
20	nology, and Logistics and the Under Secretary of Home-
21	land Security for Science and Technology shall jointly sub-
22	mit a report on the results of the interagency collaboration
23	under section 1109 to—
24	(1) the Committee on Armed Services of the
25	Senate:

1	(2) the Committee on Homeland Security and
2	Governmental Affairs of the Senate;
3	(3) the Committee on the Judiciary of the Sen-
4	ate;
5	(4) the Committee on Armed Services of the
6	House of Representatives;
7	(5) the Committee on Homeland Security of the
8	House of Representatives; and
9	(6) the Committee on the Judiciary of the
10	House of Representatives.
11	SEC. 1118. SEVERABILITY AND DELEGATION.
12	(a) Severability.—If any provision of this Act or
13	any amendment made by this Act, or any application of
14	such provision or amendment to any person or cir-
15	cumstance, is held to be unconstitutional, the remainder
16	of the provisions of this Act and the amendments made
17	by this Act and the application of the provision or amend-
18	ment to any other person or circumstance shall not be af-
19	fected.
20	(b) Delegation.—The Secretary may delegate any
21	authority provided to the Secretary under this Act or an
22	amendment made by this Act to the Secretary of Agri-
23	culture, the Attorney General, the Secretary of Defense,
24	the Secretary of Health and Human Services, the Sec-
25	retary of State, or the Commissioner of Social Security.

1	SEC. 1119. PROHIBITION ON NEW LAND BURDER CROSSING
2	FEES.
3	(a) In General.—Beginning on the date of the en-
4	actment of this Act, the Secretary shall not—
5	(1) establish, collect, or otherwise impose any
6	new border crossing fee on individuals crossing the
7	Southern border or the Northern border at a land
8	port of entry; or
9	(2) conduct any study relating to the imposition
10	of a border crossing fee.
11	(b) Border Crossing Fee Defined.—In this sec-
12	tion, the term "border crossing fee" means a fee that
13	every pedestrian, cyclist, and driver and passenger of a
14	private motor vehicle is required to pay for the privilege
15	of crossing the Southern border or the Northern border
16	at a land port of entry.
17	SEC. 1120. HUMAN TRAFFICKING REPORTING.
18	(a) Short Title.—This section may be cited as the
19	"Human Trafficking Reporting Act of 2013".
20	(b) FINDINGS.—Congress finds the following:
21	(1) Human trafficking is a form of modern-day
22	slavery.
23	(2) According to the Trafficking Victims Pro-
24	tection Act of 2000 "severe forms of trafficking in
25	persons" means—

1	(A) sex trafficking in which a commercial
2	sex act is induced by force, fraud, or coercion,
3	or in which the person induced to perform such
4	act has not attained 18 years of age; or
5	(B) the recruitment, harboring, transpor-
6	tation, provision, or obtaining of a person for
7	labor or services, through the use of force,
8	fraud, or coercion for the purpose of subjection
9	to involuntary servitude, peonage, debt bondage,
10	or slavery.
11	(3) There is an acute need for better data col-
12	lection of incidents of human trafficking across the
13	United States in order to effectively combat severe
14	forms of trafficking in persons.
15	(4) The State Department's 2012 Trafficking
16	in Persons report found that—
17	(A) the United States is a "source, transit
18	and destination country for men, women, and
19	children, subjected to forced labor, debt bond-
20	age, domestic servitude and sex trafficking,";
21	and
22	(B) the United States needs to "improve
23	data collection on human trafficking cases at
24	the federal, state and local levels".

1	(5) The International Organization for Migra-
2	tion has reported that in order to effectively combat
3	human trafficking there must be reliable and stand-
4	ardized data, however, the following barriers for
5	data collection exist:
6	(A) The illicit and underground nature of
7	human trafficking.
8	(B) The reluctance of victims to share in-
9	formation with authorities.
10	(C) Insufficient human trafficking data
11	collection and research efforts by governments
12	worldwide.
13	(6) A 2009 report to the Department of Health
14	and Human Services entitled Human Trafficking
15	Into and Within the United States: A Review of the
16	Literature found that "the data and methodologies
17	for estimating the prevalence of human trafficking
18	globally and nationally are not well developed, and
19	therefore estimates have varied widely and changed
20	significantly over time".
21	(7) The Federal Bureau of Investigation com-
22	piles national crime statistics through the Uniform
23	Crime Reporting Program.
24	(8) Under current law, State and local govern-
25	ments receiving Edward Byrne Memorial Justice As-

- 1 sistance grants are required to share data on part
- 2 1 violent crimes with the Federal Bureau of Inves-
- 3 tigation for inclusion in the Uniform Crime Report-
- 4 ing Program.
- 5 (9) The addition of severe forms of trafficking
- 6 in persons to the definition of part 1 violent crimes
- 7 will ensure that statistics on this heinous crime will
- 8 be compiled and available through the Federal Bu-
- 9 reau of Investigation's Uniform Crime Report.
- 10 (c) Human Trafficking To Be Included in Part
- 11 1 VIOLENT CRIMES FOR PURPOSES OF BYRNE GRANTS.—
- 12 Section 505 of the Omnibus Crime Control and Safe
- 13 Streets Act of 1968 (42 U.S.C. 3755) is amended by add-
- 14 ing at the end the following new subsection:
- 15 "(i) Part 1 Violent Crimes To Include Human
- 16 Trafficking.—For purposes of this section, the term
- 17 'part 1 violent crimes' shall include severe forms of traf-
- 18 ficking in persons, as defined in section 103(8) of the
- 19 Trafficking Victims Protection Act of 2000 (22 U.S.C.
- 20 7102(8)).".
- 21 SEC. 1121. RULE OF CONSTRUCTION.
- Nothing in this Act may be construed to authorize
- 23 the deployment, procurement, or construction of fencing
- 24 along the Northern border.

1	SEC. 1122. LIMITATIONS ON DANGEROUS DEPORTATION
2	PRACTICES.
3	(a) Certification Required.—
4	(1) In general.—Not later than 1 year after
5	the date of the enactment of this Act, and every 180
6	days thereafter, the Secretary, except as provided in
7	paragraph (2), shall submit written certification to
8	Congress that the Department has only deported or
9	otherwise removed a migrant from the United States
10	through an entry or exit point on the Southern bor-
11	der during daylight hours.
12	(2) Exception.—The certification required
13	under paragraph (1) shall not apply to the deporta-
14	tion or removal of a migrant otherwise described in
15	that paragraph if—
16	(A) the manner of the deportation or re-
17	moval is justified by a compelling governmental
18	interest;
19	(B) the manner of the deportation or re-
20	moval is in accordance with an applicable Local
21	Arrangement for the Repatriation of Mexican
22	Nationals entered into by the appropriate Mexi-
23	can Consulate; or
24	(C) the migrant is not an unaccompanied
25	minor and the migrant—

1	(i) is deported or removed through an
2	entry or exit point in the same sector as
3	the place where the migrant was appre-
4	hended; or
5	(ii) agrees to be deported or removed
6	in such manner after being notified of the
7	intended manner of deportation or re-
8	moval.
9	(b) Additional Information Required.—Not
10	later than 1 year after the date of the enactment of this
11	Act, the Secretary shall submit to Congress a study of the
12	Alien Transfer Exit Program, which shall include—
13	(1) the specific locations on the Southern bor-
14	der where lateral repatriations have occurred during
15	the 1-year period preceding the submission of the
16	study;
17	(2) the performance measures developed by
18	U.S. Customs and Border Protection to determine if
19	the Alien Transfer Exit Program is deterring mi-
20	grants from repeatedly crossing the border or other-
21	wise reducing recidivism; and
22	(3) the consideration given, if any, to the rates
23	of violent crime and the availability of infrastructure
24	and social services in Mexico near such locations.

1	(c) Prohibition on Confiscation of Prop-
2	ERTY.—Notwithstanding any other provision of law, law-
3	ful, nonperishable belongings of a migrant that are con-
4	fiscated by personnel operating under Federal authority
5	shall be returned to the migrant before repatriation, to
6	the extent practicable. (1)
7	SEC. 1123. MAXIMUM ALLOWABLE COSTS OF SALARIES OF
8	CONTRACTOR EMPLOYEES.
9	Section 4304(a)(16) of title 41, United States Code,
10	is amended by inserting before the period at the end the
11	following: ", except that in the case of contracts with the
12	Department of Homeland Security or the National Guard
13	while operating in Federal status that relate to border se-
14	curity, the limit on the costs of compensation of all execu-
15	tives and employees of contractors is the annual amount
16	payable under the aggregate limitation on pay as estab-
17	lished by the Office of Management and Budget (currently
18	\$230,700)".
19	Subtitle B—Other Matters
20	SEC. 1201. REMOVAL OF NONIMMIGRANTS WHO OVERSTAY
21	THEIR VISAS.
22	(a) In General.—Not later than 180 days after the
23	date of the enactment of this Act, the Secretary shall ini-
24	tiate removal proceedings, in accordance with chapter 4
25	of title II of the Immigration and Nationality Act (8

1	U.S.C. 1221 et seq.), confirm that immigration relief or
2	protection has been granted or is pending, or otherwise
3	close 90 percent of the cases of nonimmigrants who—
4	(1) were admitted to the United States as non-
5	immigrants after the date of the enactment of this
6	Act; and
7	(2) during the most recent 12-month period,
8	have entered the category of having exceeded their
9	authorized period of admission by more than 180
10	days.
11	(b) Semiannual Report.—Every 6 months after
12	the date of the enactment of this Act, the Secretary shall
13	submit a report to Congress that identifies—
14	(1) the total number of nonimmigrants who the
15	Secretary has determined have exceeded their au-
16	thorized period of admission by more than 180 days
17	after the date of the enactment of this Act, cat-
18	egorized by—
19	(A) the type of visa that authorized their
20	entry into the United States;
21	(B) their country of origin; and
22	(C) the length of time since their visa ex-
23	pired.
24	(2) an estimate of the total number of non-
25	immigrants who are physically present in the United

1	States and have exceeded their authorized period of
2	admission by more than 180 days after the date of
3	the enactment of this Act;
4	(3) for the most recent 6-month and 12-month
5	periods—
6	(A) the total number of removal pro-
7	ceedings that were initiated against non-
8	immigrants who were physically present in the
9	United States more than 180 days after the ex-
10	piration of the period for which they were law-
11	fully admitted; and
12	(B) as a result of the removal proceedings
13	described in paragraph (A)—
14	(i) the total number of removals pend-
15	ing;
16	(ii) the total number of non-
17	immigrants who were ordered to be re-
18	moved from the United States;
19	(iii) the total number of non-
20	immigrants whose removal proceedings
21	were cancelled; and
22	(iv) the total number of non-
23	immigrants who were granted immigration
24	relief or protection in removal proceedings.

1	(c) Estimated Population.—Each report sub-
2	mitted under subsection (b) shall include a comprehensive,
3	detailed explanation of and justification for the method-
4	ology used to estimate the population described in sub-
5	section (a).
6	SEC. 1202. VISA OVERSTAY NOTIFICATION PILOT PRO-
7	GRAM.
8	(a) Establishment of Pilot Program.—Not
9	later than 1 year after the date of enactment of this Act,
10	the Secretary shall establish a pilot program to explore
11	the feasibility and effectiveness of notifying individuals
12	who have traveled to the United States from a foreign na-
13	tion that the terms of their admission to the United States
14	are about to expire, including individuals that entered with
15	a visa or through the visa waiver program.
16	(b) REQUIREMENTS.—In establishing the pilot pro-
17	gram required under subsection (a), the Secretary shall—
18	(1) provide for the collection of contact infor-
19	mation, including telephone numbers and email ad-
20	dresses, as appropriate, of individuals traveling to
21	the United States from a foreign nation; and
22	(2) randomly select a pool of participants in
23	order to form a statistically significant sample of
24	people who travel to the United States each year to
25	receive notification by telephone, email, or other

1	electronic means that the terms of their admission
2	to the United States is about to expire.
3	(c) REPORT.—Not later than 1 year after the date
4	on which the Secretary establishes the pilot program
5	under subsection (a), the Secretary shall submit to Con-
6	gress a report on whether the telephone or email notifica-
7	tions have a statistically significant effect on reducing the
8	rates of visa overstays in the United States.
9	SEC. 1203. PREVENTING UNAUTHORIZED IMMIGRATION
10	TRANSITING THROUGH MEXICO.
11	(a) In General.—The Secretary of State, in coordi-
12	nation with the Secretary of Homeland Security, shall de-
13	velop, in consultation with the relevant Committees of
14	Congress, a strategy to address the unauthorized immigra-
15	tion of individuals who transit through Mexico to the
16	United States.
17	(b) REQUIREMENTS.—The strategy developed under
18	subsection (a) shall include specific steps—
19	(1) to enhance the training, resources, and pro-
20	fessionalism of border and law enforcement officials
21	in Mexico, Honduras, El Salvador, Guatemala, and
22	other countries, as appropriate; and
23	(2) to educate nationals of the countries de-
24	scribed in paragraph (1) about the perils of the jour-
25	ney to the United States including how this Act wil

1	increase the likelihood of apprehension, increase
2	criminal penalties associated with illegal entry, and
3	make finding employment in the United States more
4	difficult.
5	(c) Implementation of Strategy.—In carrying
6	out the strategy developed under subsection (a)—
7	(1) the Secretary of Homeland Security, in con-
8	junction with the Secretary of State, shall produce
9	an educational campaign and disseminate informa-
10	tion about the perils of the journey across Mexico,
11	the likelihood of apprehension, and the difficulty of
12	finding employment in the United States; and
13	(2) the Secretary of State, in coordination with
14	the Secretary of Homeland Security, shall offer—
15	(A) training to border and law enforcement
16	officials to enable these officials to operate more
17	effectively, by using, to the greatest extent
18	practicable, Department of Homeland Security
19	personnel to conduct the training; and
20	(B) technical assistance and equipment to
21	border officials, including computers, document
22	readers, and other forms of technology that
23	may be needed, as appropriate.
24	(d) Availability of Funds.—The Secretary of
25	Homeland Security may use such sums as are necessary

1	from the Comprehensive Immigration Trust Fund estab-
2	lished under section 6(a)(1) to carry out this section.
3	TITLE II—IMMIGRANT VISAS
4	Subtitle A-Registration and Ad-
5	justment of Registered Provi-
6	sional Immigrants
7	SEC. 2101. REGISTERED PROVISIONAL IMMIGRANT STATUS
8	(a) AUTHORIZATION.—Chapter 5 of title II (8 U.S.C.
9	1255 et seq.) is amended by inserting after section 245A
10	the following:
11	"SEC. 245B. ADJUSTMENT OF STATUS OF ELIGIBLE EN
12	TRANTS BEFORE DECEMBER 31, 2011, TO
13	THAT OF REGISTERED PROVISIONAL IMMI
14	GRANT.
15	"(a) In General.—Notwithstanding any other pro-
16	vision of law, the Secretary of Homeland Security (re-
17	ferred to in this section and in sections 245C through
18	245F as the 'Secretary'), after conducting the national se-
19	curity and law enforcement clearances required under sub-
20	section (c)(8), may grant registered provisional immigrant
21	status to an alien who—
22	"(1) meets the eligibility requirements set forth
23	in subsection (b);
24	"(2) submits a completed application before the
25	end of the period set forth in subsection (c)(3); and

1	"(3) has paid the fee required under subsection
2	(c)(10)(A) and the penalty required under sub-
3	section (c)(10)(C), if applicable.
4	"(b) Eligibility Requirements.—
5	"(1) In general.—An alien is not eligible for
6	registered provisional immigrant status unless the
7	alien establishes, by a preponderance of the evidence,
8	that the alien meets the requirements set forth in
9	this subsection.
10	"(2) Physical presence.—
11	"(A) In general.—The alien—
12	"(i) shall be physically present in the
13	United States on the date on which the
14	alien submits an application for registered
15	provisional immigrant status;
16	"(ii) shall have been physically
17	present in the United States on or before
18	December 31, 2011; and
19	"(iii) shall have maintained contin-
20	uous physical presence in the United
21	States from December 31, 2011, until the
22	date on which the alien is granted status
23	as a registered provisional immigrant
24	under this section.
25	"(R) Break in physical presence —

1	"(i) In general.—Except as pro-
2	vided in clause (ii), an alien who is absent
3	from the United States without authoriza-
4	tion after the date of the enactment of the
5	Border Security, Economic Opportunity,
6	and Immigration Modernization Act does
7	not meet the continuous physical presence
8	requirement set forth in subparagraph
9	(A)(iii).
10	"(ii) Exception.—An alien who de-
11	parted from the United States after De-
12	cember 31, 2011, will not be considered to
13	have failed to maintain continuous pres-
14	ence in the United States if the alien's ab-
15	sences from the United States are brief,
16	casual, and innocent whether or not such
17	absences were authorized by the Secretary.
18	"(3) Grounds for ineligibility.—
19	"(A) In general.—Except as provided in
20	subparagraph (B), an alien is ineligible for reg-
21	istered provisional immigrant status if the Sec-
22	retary determines that the alien—
23	"(i) has a conviction for—
24	"(I) an offense classified as a fel-
25	ony in the convicting jurisdiction

1	(other than a State or local offense
2	for which an essential element was the
3	alien's immigration status, or a viola-
4	tion of this Act);
5	"(II) an aggravated felony (as
6	defined in section 101(a)(43) at the
7	time of the conviction);
8	"(III) 3 or more misdemeanor of-
9	fenses (other than minor traffic of-
10	fenses or State or local offenses for
11	which an essential element was the
12	alien's immigration status, or viola-
13	tions of this Act) if the alien was con-
14	victed on different dates for each of
15	the 3 offenses;
16	"(IV) any offense under foreign
17	law, except for a purely political of-
18	fense, which, if the offense had been
19	committed in the United States,
20	would render the alien inadmissible
21	under section 212(a) (excluding the
22	paragraphs set forth in clause (ii)) or
23	removable under section 237(a), ex-
24	cept as provided in paragraph (3) of
25	section 237(a);

1	"(V) unlawful voting (as defined
2	in section 237(a)(6));
3	"(ii) is inadmissible under section
4	212(a), except that in determining an
5	alien's inadmissibility—
6	"(I) paragraphs (4), (5), (7), and
7	(9)(B) of section 212(a) shall not
8	apply;
9	"(II) subparagraphs (A), (C),
10	(D), (F), and (G) of section 212(a)(6)
11	and paragraphs (9)(C) and (10)(B) of
12	section 212(a) shall not apply unless
13	based on the act of unlawfully enter-
14	ing the United States after the date
15	of the enactment of the Border Secu-
16	rity, Economic Opportunity, and Im-
17	migration Modernization Act; and
18	"(III) paragraphs (6)(B) and
19	(9)(A) of section 212(a) shall not
20	apply unless the relevant conduct
21	began on or after the date on which
22	the alien files an application for reg-
23	istered provisional immigrant status
24	under this section;

1	"(iii) is an alien who the Secretary
2	knows or has reasonable grounds to be-
3	lieve, is engaged in or is likely to engage
4	after entry in any terrorist activity (as de-
5	fined in section 212(a)(3)(B)(iv)); or
6	"(iv) was, on April 16, 2013—
7	"(I) an alien lawfully admitted
8	for permanent residence;
9	"(II) an alien admitted as a ref-
10	ugee under section 207 or granted
11	asylum under section 208; or
12	"(III) an alien who, according to
13	the records of the Secretary or the
14	Secretary of State, is lawfully present
15	in the United States in any non-
16	immigrant status (other than an alien
17	considered to be a nonimmigrant sole-
18	ly due to the application of section
19	244(f)(4) or the amendment made by
20	section 702 of the Consolidated Nat-
21	ural Resources Act of 2008 (Public
22	Law 110-229)), notwithstanding any
23	unauthorized employment or other
24	violation of nonimmigrant status.
25	"(B) Waiver.—

1	"(i) In General.—The Secretary
2	may waive the application of subparagraph
3	(A)(i)(III) or any provision of section
4	212(a) that is not listed in clause (ii) on
5	behalf of an alien for humanitarian pur-
6	poses, to ensure family unity, or if such a
7	waiver is otherwise in the public interest.
8	Any discretionary authority to waive
9	grounds of inadmissibility under section
10	212(a) conferred under any other provision
11	of this Act shall apply equally to aliens
12	seeking registered provisional status under
13	this section.
14	"(ii) Exceptions.—The discretionary
15	authority under clause (i) may not be used
16	to waive—
17	(I) subparagraph (B) , (C) ,
18	(D)(ii), (E), (G), (H), or (I) of section
19	212(a)(2);
20	"(II) section 212(a)(3);
21	"(III) subparagraph (A), (C),
22	(D), or (E) of section 212(a)(10); or
23	"(IV) with respect to misrepre-
24	sentations relating to the application

1	for registered provisional immigrant
2	status, section $212(a)(6)(C)(i)$.
3	"(C) Conviction explained.—For pur-
4	poses of this paragraph, the term 'conviction'
5	does not include a judgment that has been ex-
6	punged, set aside, or the equivalent.
7	"(D) Rule of Construction.—Nothing
8	in this paragraph may be construed to require
9	the Secretary to commence removal proceedings
10	against an alien.
11	"(4) Applicability of other provisions.—
12	Sections $208(d)(6)$ and $240B(d)$ shall not apply to
13	any alien filing an application for registered provi-
14	sional immigrant status under this section.
15	"(5) Dependent spouse and children.—
16	"(A) In General.—Notwithstanding any
17	other provision of law, the Secretary may clas-
18	sify the spouse or child of a registered provi-
19	sional immigrant as a registered provisional im-
20	migrant dependent if the spouse or child—
21	"(i) was physically present in the
22	United States on or before December 31,
23	2012, and has maintained continuous pres-
24	ence in the United States from that date
25	until the date on which the registered pro-

1	visional immigrant is granted such status,
2	with the exception of absences from the
3	United States that are brief, casual, and
4	innocent, whether or not such absences
5	were authorized by the Secretary; and
6	"(ii) meets all of the eligibility re-
7	quirements set forth in this subsection,
8	other than the requirements of clause (ii)
9	or (iii) of paragraph (2)(A).
10	"(B) Effect of termination of legal
11	RELATIONSHIP OR DOMESTIC VIOLENCE.—If
12	the spousal or parental relationship between an
13	alien who is granted registered provisional im-
14	migrant status under this section and the
15	alien's spouse or child is terminated due to
16	death or divorce or the spouse or child has been
17	battered or subjected to extreme cruelty by the
18	alien (regardless of whether the legal relation-
19	ship terminates), the spouse or child may apply
20	for classification as a registered provisional im-
21	migrant.
22	"(C) EFFECT OF DISQUALIFICATION OF
23	PARENT.—Notwithstanding subsection (c)(3), if
24	the application of a spouse or parent for reg-

istered provisional immigrant status is termi-

nated or revoked, the husband, wife, or child of that spouse or parent shall be eligible to apply for registered provisional immigrant status independent of the parent or spouse.

"(c) Application Procedures.—

"(1) IN GENERAL.—An alien, or the dependent spouse or child of such alien, who meets the eligibility requirements set forth in subsection (b) may apply for status as a registered provisional immigrant or a registered provisional immigrant dependent, as applicable, by submitting a completed application form to the Secretary during the application period set forth in paragraph (3), in accordance with the final rule promulgated by the Secretary under the Border Security, Economic Opportunity, and Immigration Modernization Act. An applicant for registered provisional immigrant status shall be treated as an applicant for admission.

"(2) Payment of Taxes.—

"(A) IN GENERAL.—An alien may not file an application for registered provisional immigrant status under paragraph (1) unless the applicant has satisfied any applicable Federal tax liability.

1	"(B) Definition of Applicable fed-
2	ERAL TAX LIABILITY.—In this paragraph, the
3	term 'applicable Federal tax liability' means all
4	Federal income taxes assessed in accordance
5	with section 6203 of the Internal Revenue Code
6	of 1986.
7	"(C) Demonstration of compliance.—

"(C) Demonstration of compliance.— An applicant may demonstrate compliance with this paragraph by submitting appropriate documentation, in accordance with regulations promulgated by the Secretary, in consultation with the Secretary of the Treasury.

"(3) APPLICATION PERIOD.—

"(A) Initial Period.—Except as provided in subparagraph (B), the Secretary may only accept applications for registered provisional immigrant status from aliens in the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

"(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for registered

1	provisional immigrant status or for other good
2	cause, the Secretary may extend the period for
3	accepting applications for such status for an
4	additional 18 months.
5	"(4) Application form.—
6	"(A) REQUIRED INFORMATION.—
7	"(i) In general.—The application
8	form referred to in paragraph (1) shall col-
9	lect such information as the Secretary de-
10	termines to be necessary and appropriate,
11	including, for the purpose of understanding
12	immigration trends—
13	"(I) an explanation of how, when,
14	and where the alien entered the
15	United States;
16	"(II) the country in which the
17	alien resided before entering the
18	United States; and
19	"(III) other demographic infor-
20	mation specified by the Secretary.
21	"(ii) Privacy protections.—Infor-
22	mation described in subclauses (I) through
23	(III) of clause (i), which shall be provided
24	anonymously by the applicant on the appli-
25	cation form referred to in paragraph (1),

1	shall be subject to the same confidentiality
2	provisions as those set forth in section 9 of
3	title 13, United States Code.
4	"(iii) Report.—The Secretary shall
5	submit a report to Congress that contains
6	a summary of the statistical data about
7	immigration trends collected pursuant to
8	clause (i).
9	"(B) Family application.—The Sec-
10	retary shall establish a process through which
11	an alien may submit a single application under
12	this section on behalf of the alien, his or her
13	spouse, and his or her children who are residing
14	in the United States.
15	"(C) Interview.—The Secretary may
16	interview applicants for registered provisional
17	immigrant status under this section to deter-
18	mine whether they meet the eligibility require-
19	ments set forth in subsection (b).
20	"(5) Aliens apprehended before or dur-
21	ING THE APPLICATION PERIOD.—If an alien who is
22	apprehended during the period beginning on the
23	date of the enactment of the Border Security, Eco-
24	nomic Opportunity, and Immigration Modernization

Act and the end of the application period described

1	in paragraph (3) appears prima facie eligible for
2	registered provisional immigrant status, to the satis-
3	faction of the Secretary, the Secretary—
4	"(A) shall provide the alien with a reason-
5	able opportunity to file an application under
6	this section during such application period; and
7	"(B) may not remove the individual until
8	a final administrative determination is made on
9	the application.
10	"(6) Eligibility after departure.—
11	"(A) IN GENERAL.—An alien who departed
12	from the United States while subject to an
13	order of exclusion, deportation, or removal, or
14	pursuant to an order of voluntary departure
15	and who is outside of the United States, or who
16	has reentered the United States illegally after
17	December 31, 2011 without receiving the Sec-
18	retary's consent to reapply for admission under
19	section 212(a)(9), shall not be eligible to file an
20	application for registered provisional immigrant
21	status.
22	"(B) WAIVER.—The Secretary, in the Sec-
23	retary's sole and unreviewable discretion, sub-

ject to subparagraph (D), may waive the appli-

1	cation of subparagraph (A) on behalf of an
2	alien if the alien—
3	"(i) is the spouse or child of a United
4	States citizen or lawful permanent resi-
5	dent;
6	"(ii) is the parent of a child who is a
7	United States citizen or lawful permanent
8	resident;
9	"(iii) meets the requirements set forth
10	in clauses (ii) and (iii) of section
11	245D(b)(1)(A); or
12	"(iv) meets the requirements set forth
13	in section 245D(b)(1)(A)(ii), is 16 years or
14	older on the date on which the alien ap-
15	plies for registered provisional immigrant
16	status, and was physically present in the
17	United States for an aggregate period of
18	not less than 3 years during the 6-year pe-
19	riod immediately preceding the date of the
20	enactment of the Border Security, Eco-
21	nomic Opportunity, and Immigration Mod-
22	ernization Act.
23	"(C) Eligibility.—Subject to subpara-
24	graph (D) and notwithstanding subsection
25	(b)(2), section 241(a)(5), or a prior order of ex-

1	clusion, deportation, or removal, an alien de-
2	scribed in subparagraph (B) who is otherwise
3	eligible for registered provisional immigrant sta-
4	tus may file an application for such status.
5	"(D) CRIME VICTIMS' RIGHTS TO NOTICE
6	AND CONSULTATION.—Prior to applying, or ex-
7	ercising, any authority under this paragraph, or
8	ruling upon an application allowed under sub-
9	paragraph (C) the Secretary shall—
10	"(i) determine whether or not an alien
11	described under subparagraph (B) or (C)
12	has a conviction for any criminal offense;
13	"(ii) in consultation with the agency
14	that prosecuted the criminal offense under
15	clause (i), if the agency, in the sole discre-
16	tion of the agency, is willing to cooperate
17	with the Secretary, make all reasonable ef-
18	forts to identify each victim of a crime for
19	which an alien determined to be a criminal
20	under clause (i) has a conviction;
21	"(iii) in consultation with the agency
22	that prosecuted the criminal offense under
23	clause (i), if the agency, in the sole discre-
24	tion of the agency, is willing to cooperate
25	with the Secretary, make all reasonable ef-

1	forts to provide each victim identified
2	under clause (ii) with written notice that
3	the alien is being considered for a waiver
4	under this paragraph, specifying in such
5	notice that the victim may—
6	"(I) take no further action;
7	(Π) request written notification
8	by the Secretary of any subsequent
9	application for waiver filed by the
10	criminal alien under this paragraph
11	and of the final determination of the
12	Secretary regarding such application;
13	or
14	"(III) not later than 60 days
15	after the date on which the victim re-
16	ceives written notice under this clause,
17	request a consultation with the Sec-
18	retary relating to whether the applica-
19	tion of the offender should be granted
20	and if the victim cannot be located or
21	if no response is received from the vic-
22	tim within the designated time period,
23	the Secretary shall proceed with adju-
24	dication of the application; and

1	"(iv) at the request of a victim under
2	clause (iii), consult with the victim to de-
3	termine whether or not the Secretary
4	should, in the case of an alien who is de-
5	termined under clause (i) to have a convic-
6	tion for any criminal offense, exercise waiv-
7	er authority for an alien described under
8	subparagraph (B), or grant the application
9	of an alien described under subparagraph
10	(C).
11	((/ D)

"(E) CRIME VICTIMS' RIGHT TO INTER-VENTION.—In addition to the victim notification and consultation provided for in subparagraph (D), the Secretary shall allow the victim of a criminal alien described under subparagraph (B) or (C) to request consultation regarding, or notice of, any application for waiver filed by the criminal alien under this paragraph, including the final determination of the Secretary regarding such application.

"(F) CONFIDENTIALITY PROTECTIONS FOR CRIME VICTIMS.—The Secretary and the Attorney General may not make an adverse determination of admissibility or deportability of any alien who is a victim and not lawfully present

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1	in the United States based solely on informa-
2	tion supplied or derived in the process of identi-
3	fication, notification, or consultation under this
4	paragraph.
5	"(G) Reports required.—Not later than
6	September 30 of each fiscal year in which the
7	Secretary exercises authority under this para-
8	graph to rule upon the application of a criminal
9	offender allowed under subparagraph (C), the
10	Secretary shall submit to the Committee on the
11	Judiciary of the Senate and the Committee or
12	the Judiciary of the House of Representatives a
13	report detailing the execution of the victim
14	identification and notification process required
15	under subparagraph (D), which shall include—
16	"(i) the total number of criminal of-
17	fenders who have filed an application
18	under subparagraph (C) and the crimes
19	committed by such offenders;
20	"(ii) the total number of criminal of-
21	fenders whose application under subpara-
22	graph (C) has been granted and the crimes
23	committed by such offenders; and
24	"(iii) the total number of victims of
25	criminal offenders under clause (ii) who

1	were not provided with written notice of
2	the offender's application and the crimes
3	committed against the victims.
4	"(H) Definition.—In this paragraph, the
5	term 'victim' has the meaning given the term in
6	section 503(e) of the Victims' Rights and Res-
7	titution Act of 1990 (42 U.S.C. 10607(e)).
8	"(7) Suspension of Removal during appli-
9	CATION PERIOD.—
10	"(A) Protection from detention or
11	REMOVAL.—A registered provisional immigrant
12	may not be detained by the Secretary or re-
13	moved from the United States, unless—
14	"(i) the Secretary determines that—
15	"(I) such alien is, or has become,
16	ineligible for registered provisional im-
17	migrant status under subsection
18	(b)(3); or
19	"(II) the alien's registered provi-
20	sional immigrant status has been re-
21	voked under subsection $(d)(2)$.
22	"(B) ALIENS IN REMOVAL PRO-
23	CEEDINGS.—Notwithstanding any other provi-
24	sion of this Act—

1	"(i) if the Secretary determines that
2	an alien, during the period beginning on
3	the date of the enactment of this section
4	and ending on the last day of the applica-
5	tion period described in paragraph (3), is
6	in removal, deportation, or exclusion pro-
7	ceedings before the Executive Office for
8	Immigration Review and is prima facie eli-
9	gible for registered provisional immigrant
10	status under this section—
11	"(I) the Secretary shall provide
12	the alien with the opportunity to file
13	an application for such status; and
14	"(II) upon motion by the Sec-
15	retary and with the consent of the
16	alien or upon motion by the alien, the
17	Executive Office for Immigration Re-
18	view shall—
19	"(aa) terminate such pro-
20	ceedings without prejudice to fu-
21	ture proceedings on any basis;
22	and
23	"(bb) provide the alien a
24	reasonable opportunity to apply
25	for such status; and

1	"(ii) if the Executive Office for Immi-
2	gration Review determines that an alien,
3	during the period beginning on the date of
4	the enactment of this section and ending
5	on the last day of the application period
6	described in paragraph (3), is in removal,
7	deportation, or exclusion proceedings be-
8	fore the Executive Office for Immigration
9	Review and is prima facie eligible for reg-
10	istered provisional immigrant status under
11	this section—
12	"(I) the Executive Office of Im-
13	migration Review shall notify the Sec-
14	retary of such determination; and
15	"(II) if the Secretary does not
16	dispute the determination of prima
17	facie eligibility within 7 days after
18	such notification, the Executive Office
19	for Immigration Review, upon consent
20	of the alien, shall—
21	"(aa) terminate such pro-
22	ceedings without prejudice to fu-
23	ture proceedings on any basis;
24	and

1	"(bb) permit the alien a rea-
2	sonable opportunity to apply for
3	such status.
4	"(C) Treatment of Certain Aliens.—
5	"(i) In general.—If an alien who
6	meets the eligibility requirements set forth
7	in subsection (b) is present in the United
8	States and has been ordered excluded, de-
9	ported, or removed, or ordered to depart
10	voluntarily from the United States under
11	any provision of this Act—
12	"(I) notwithstanding such order
13	or section 241(a)(5), the alien may
14	apply for registered provisional immi-
15	grant status under this section; and
16	"(II) if the alien is granted such
17	status, the alien shall file a motion to
18	reopen the exclusion, deportation, re-
19	moval, or voluntary departure order,
20	which motion shall be granted unless
21	1 or more of the grounds of ineligi-
22	bility is established by clear and con-
23	vincing evidence.
24	"(ii) Limitations on motions to
25	REOPEN.—The limitations on motions to

1	reopen set forth in section $240(c)(7)$ shall
2	not apply to motions filed under clause
3	(i)(II).
4	"(D) Period Pending Adjudication of
5	APPLICATION.—
6	"(i) In general.—During the period
7	beginning on the date on which an alien
8	applies for registered provisional immi-
9	grant status under paragraph (1) and the
10	date on which the Secretary makes a final
11	decision regarding such application, the
12	alien—
13	"(I) may receive advance parole
14	to reenter the United States if urgent
15	humanitarian circumstances compel
16	such travel;
17	"(II) may not be detained by the
18	Secretary or removed from the United
19	States unless the Secretary makes a
20	prima facie determination that such
21	alien is, or has become, ineligible for
22	registered provisional immigrant sta-
23	tus under subsection (b)(3);

1	"(III) shall not be considered un-
2	lawfully present for purposes of sec-
3	tion $212(a)(9)(B)$; and
4	"(IV) shall not be considered an
5	unauthorized alien (as defined in sec-
6	tion $274A(h)(3)$).
7	"(ii) EVIDENCE OF APPLICATION FIL-
8	ING.—As soon as practicable after receiv-
9	ing each application for registered provi-
10	sional immigrant status, the Secretary
11	shall provide the applicant with a docu-
12	ment acknowledging the receipt of such ap-
13	plication.
14	"(iii) Continuing employment.—
15	An employer who knows that an alien em-
16	ployee is an applicant for registered provi-
17	sional immigrant status or will apply for
18	such status once the application period
19	commences is not in violation of section
20	274A(a)(2) if the employer continues to
21	employ the alien pending the adjudication
22	of the alien employee's application.
23	"(iv) Effect of Departure.—Sec-
24	tion 101(g) shall not apply to an alien
25	granted—

1	"(I) advance parole under clause
2	(i)(I) to reenter the United States; or
3	"(II) registered provisional immi-
4	grant status.
5	"(8) SECURITY AND LAW ENFORCEMENT
6	CLEARANCES.—
7	"(A) BIOMETRIC AND BIOGRAPHIC
8	DATA.—The Secretary may not grant registered
9	provisional immigrant status to an alien or an
10	alien dependent spouse or child under this sec-
11	tion unless such alien submits biometric and
12	biographic data in accordance with procedures
13	established by the Secretary.
14	"(B) ALTERNATIVE PROCEDURES.—The
15	Secretary shall provide an alternative procedure
16	for applicants who cannot provide the biometric
17	data required under subparagraph (A) because
18	of a physical impairment.
19	"(C) CLEARANCES.—
20	"(i) Data collection.—The Sec-
21	retary shall collect, from each alien apply-
22	ing for status under this section, biometric,
23	biographic, and other data that the Sec-
24	retary determines to be appropriate—

1	"(I) to conduct national security
2	and law enforcement clearances; and
3	"(II) to determine whether there
4	are any national security or law en-
5	forcement factors that would render
6	an alien ineligible for such status.
7	"(ii) Additional security screen-
8	ING.—The Secretary, in consultation with
9	the Secretary of State and other inter-
10	agency partners, shall conduct an addi-
11	tional security screening upon determining,
12	in the Secretary's opinion based upon in-
13	formation related to national security, that
14	an alien or alien dependent spouse or child
15	is or was a citizen or long-term resident of
16	a region or country known to pose a
17	threat, or that contains groups or organi-
18	zations that pose a threat, to the national
19	security of the United States.
20	"(iii) Prerequisite.—The required
21	clearances and screenings described in
22	clauses (i)(I) and (ii) shall be completed
23	before the alien may be granted registered
24	provisional immigrant status.
25	"(9) Duration of status and extension.—

1	"(A) In general.—The initial period of
2	authorized admission for a registered provi-
3	sional immigrant—
4	"(i) shall remain valid for 6 years un-
5	less revoked pursuant to subsection (d)(2);
6	and
7	"(ii) may be extended for additional
8	6-year terms if—
9	"(I) the alien remains eligible for
10	registered provisional immigrant sta-
11	tus;
12	"(II) the alien meets the employ-
13	ment requirements set forth in sub-
14	paragraph (B);
15	"(III) the alien has successfully
16	passed background checks that are
17	equivalent to the background checks
18	described in section $245D(b)(1)(E)$;
19	and
20	"(IV) such status was not re-
21	voked by the Secretary for any reason.
22	"(B) Employment or education re-
23	QUIREMENT.—Except as provided in subpara-
24	graphs (D) and (E) of section $245C(b)(3)$, an
25	alien may not be granted an extension of reg-

1	istered provisional immigrant status under this
2	paragraph unless the alien establishes that,
3	during the alien's period of status as a reg-
4	istered provisional immigrant, the alien—
5	``(i)(I) was regularly employed
6	throughout the period of admission as a
7	registered provisional immigrant, allowing
8	for brief periods lasting not more than 60
9	days; and
10	"(II) is not likely to become a public
11	charge (as determined under section
12	212(a)(4); or
13	"(ii) is able to demonstrate average
14	income or resources that are not less than
15	100 percent of the Federal poverty level
16	throughout the period of admission as a
17	registered provisional immigrant.
18	"(C) Payment of Taxes.—An applicant
19	may not be granted an extension of registered
20	provisional immigrant status under subpara-
21	graph (A)(ii) unless the applicant has satisfied
22	any applicable Federal tax liability in accord-
23	ance with paragraph (2).
24	"(10) Fees and penalties.—
25	"(A) STANDARD PROCESSING FEE.—

1	"(i) In general.—Aliens who are 16
2	years of age or older and are applying for
3	registered provisional immigrant status
4	under paragraph (1), or for an extension
5	of such status under paragraph (9)(A)(ii),
6	shall pay a processing fee to the Depart-
7	ment of Homeland Security in an amount
8	determined by the Secretary.
9	"(ii) Recovery of costs.—The
10	processing fee authorized under clause (i)
11	shall be set at a level that is sufficient to
12	recover the full costs of processing the ap-
13	plication, including any costs incurred—
14	"(I) to adjudicate the application;
15	"(II) to take and process bio-
16	metrics;
17	"(III) to perform national secu-
18	rity and criminal checks, including ad-
19	judication;
20	"(IV) to prevent and investigate
21	fraud; and
22	"(V) to administer the collection
23	of such fee.
24	"(iii) Authority to limit fees.—
25	The Secretary, by regulation, may—

1	"(I) limit the maximum proc-
2	essing fee payable under this subpara-
3	graph by a family, including spouses
4	and unmarried children younger than
5	21 years of age; and
6	"(II) exempt defined classes of
7	individuals, including individuals de-
8	scribed in section 245B(c)(13), from
9	the payment of the fee authorized
10	under clause (i).
11	"(B) Deposit and use of processing
12	FEES.—Fees collected under subparagraph
13	(A)(i)—
14	"(i) shall be deposited into the Immi-
15	gration Examinations Fee Account pursu-
16	ant to section 286(m); and
17	"(ii) shall remain available until ex-
18	pended pursuant to section 286(n).
19	"(C) Penalty.—
20	"(i) Payment.—In addition to the
21	processing fee required under subpara-
22	graph (A), aliens not described in section
23	245D(b)(A)(ii) who are 21 years of age or
24	older and are filing an application under

1	this subsection shall pay a \$1,000 penalty
2	to the Department of Homeland Security.
3	"(ii) Installments.—The Secretary
4	shall establish a process for collecting pay-
5	ments required under clause (i) that per-
6	mits the penalty under that clause to be
7	paid in periodic installments that shall be
8	completed before the alien may be granted
9	an extension of status under paragraph
10	(9)(A)(ii).
11	"(iii) Deposit.—Penalties collected
12	pursuant to this subparagraph shall be de-
13	posited into the Comprehensive Immigra-
14	tion Reform Trust Fund established under
15	section 6(a)(1) of the Border Security,
16	Economic Opportunity, and Immigration
17	Modernization Act.
18	"(11) Adjudication.—
19	"(A) FAILURE TO SUBMIT SUFFICIENT
20	EVIDENCE.—The Secretary shall deny an appli-
21	cation submitted by an alien who fails to sub-
22	mit—
23	"(i) requested initial evidence, includ-
24	ing requested biometric data; or

1	"(ii) any requested additional evidence
2	by the date required by the Secretary.
3	"(B) AMENDED APPLICATION.—An alien
4	whose application for registered provisional im-
5	migrant status is denied under subparagraph
6	(A) may file an amended application for such
7	status to the Secretary if the amended applica-
8	tion—
9	"(i) is filed within the application pe-
10	riod described in paragraph (3); and
11	"(ii) contains all the required informa-
12	tion and fees that were missing from the
13	initial application.
14	"(12) Evidence of registered provisional
15	IMMIGRANT STATUS.—
16	"(A) In General.—The Secretary shall
17	issue documentary evidence of registered provi-
18	sional immigrant status to each alien whose ap-
19	plication for such status has been approved.
20	"(B) Documentation features.—Docu-
21	mentary evidence provided under subparagraph
22	(A)—
23	"(i) shall be machine-readable and
24	tamper-resistant, and shall contain a
25	digitized photograph;

1	"(ii) shall, during the alien's author-
2	ized period of admission, and any exten-
3	sion of such authorized admission, serve as
4	a valid travel and entry document for the
5	purpose of applying for admission to the
6	United States;
7	"(iii) may be accepted during the pe-
8	riod of its validity by an employer as evi-
9	dence of employment authorization and
10	identity under section 274A(b)(1)(B);
11	"(iv) shall indicate that the alien is
12	authorized to work in the United States
13	for up to 3 years; and
14	"(v) shall include such other features
15	and information as may be prescribed by
16	the Secretary.
17	"(13) DACA RECIPIENTS.—Unless the Sec-
18	retary determines that an alien who was granted De-
19	ferred Action for Childhood Arrivals (referred to in
20	this paragraph as 'DACA') pursuant to the Sec-
21	retary's memorandum of June 15, 2012, has en-
22	gaged in conduct since the alien was granted DACA
23	that would make the alien ineligible for registered
24	provisional immigrant status, the Secretary may
25	grant such status to the alien if renewed national se-

1	curity and law enforcement clearances have been
2	completed on behalf of the alien.
3	"(d) Terms and Conditions of Registered Pro-
4	VISIONAL IMMIGRANT STATUS.—
5	"(1) Conditions of registered provisional
6	IMMIGRANT STATUS.—
7	"(A) Employment.—Notwithstanding any
8	other provision of law, including section
9	241(a)(7), a registered provisional immigrant
10	shall be authorized to be employed in the
11	United States while in such status.
12	"(B) Travel outside the united
13	STATES.—A registered provisional immigrant
14	may travel outside of the United States and
15	may be admitted, if otherwise admissible, upon
16	returning to the United States without having
17	to obtain a visa if—
18	"(i) the alien is in possession of—
19	"(I) valid, unexpired documen-
20	tary evidence of registered provisional
21	immigrant status that complies with
22	subsection (e)(12); or
23	"(II) a travel document, duly ap-
24	proved by the Secretary, that was
25	issued to the alien after the alien's

1	original documentary evidence was
2	lost, stolen, or destroyed;
3	"(ii) the alien's absence from the
4	United States did not exceed 180 days, un-
5	less the alien's failure to timely return was
6	due to extenuating circumstances beyond
7	the alien's control;
8	"(iii) the alien meets the requirements
9	for an extension as described in subclauses
10	(I) and (III) of paragraph (9)(A); and
11	"(iv) the alien establishes that the
12	alien is not inadmissible under subpara-
13	graph (A)(i), (A)(iii), (B), or (C) of section
14	212(a)(3).
15	"(C) Admission.—An alien granted reg-
16	istered provisional immigrant status under this
17	section shall be considered to have been admit-
18	ted and lawfully present in the United States in
19	such status as of the date on which the alien's
20	application was filed.
21	"(D) Clarification of status.—An
22	alien granted registered provisional immigrant
23	status—
24	"(i) is lawfully admitted to the United
25	States; and

1	"(ii) may not be classified as a non-
2	immigrant or as an alien who has been
3	lawfully admitted for permanent residence.
4	"(2) Revocation.—
5	"(A) IN GENERAL.—The Secretary may re-
6	voke the status of a registered provisional immi-
7	grant at any time after providing appropriate
8	notice to the alien, and after the exhaustion or
9	waiver of all applicable administrative review
10	procedures under section 245E(c), if the
11	alien—
12	"(i) no longer meets the eligibility re-
13	quirements set forth in subsection (b);
14	"(ii) knowingly used documentation
15	issued under this section for an unlawful
16	or fraudulent purpose;
17	"(iii) is convicted of fraudulently
18	claiming or receiving a Federal means-test-
19	ed benefit (as defined and implemented in
20	section 403 of the Personal Responsibility
21	and Work Opportunity Reconciliation Act
22	of 1996 (8 U.S.C. 1613)) after being
23	granted registered provisional immigrant
24	status; or

1	"(iv) was absent from the United
2	States—
3	"(I) for any single period longer
4	than 180 days in violation of the re-
5	quirements set forth in paragraph
6	(1)(B)(ii); or
7	"(II) for more than 180 days in
8	the aggregate during any calendar
9	year, unless the alien's failure to time-
10	ly return was due to extenuating cir-
11	cumstances beyond the alien's control.
12	"(B) Additional evidence.—In deter-
13	mining whether to revoke an alien's status
14	under subparagraph (A), the Secretary may re-
15	quire the alien—
16	"(i) to submit additional evidence; or
17	"(ii) to appear for an interview.
18	"(C) Invalidation of documenta-
19	TION.—If an alien's registered provisional im-
20	migrant status is revoked under subparagraph
21	(A), any documentation issued by the Secretary
22	to such alien under subsection $(c)(12)$ shall
23	automatically be rendered invalid for any pur-
24	pose except for departure from the United
25	States.

1	"(3) Ineligibility for public benefits.—
2	"(A) IN GENERAL.—An alien who has been
3	granted registered provisional immigrant status
4	under this section is not eligible for any Federal
5	means-tested public benefit (as defined and im-
6	plemented in section 403 of the Personal Re-
7	sponsibility and Work Opportunity Reconcili-
8	ation Act of 1996 (8 U.S.C. 1613)).
9	"(B) Audits.—The Secretary of Health
10	and Human Services shall conduct regular au-
11	dits to ensure that registered provisional immi-
12	grants are not fraudulently receiving any of the
13	benefits described in subparagraph (A).
14	"(4) Treatment of registered provisional
15	IMMIGRANTS.—A noncitizen granted registered pro-
16	visional immigrant status under this section shall be
17	considered lawfully present in the United States for
18	all purposes while such noncitizen remains in such
19	status, except that the noncitizen—
20	"(A) is not entitled to the premium assist-
21	ance tax credit authorized under section 36B of
22	the Internal Revenue Code of 1986 for his or
23	her coverage;

1	"(B) shall be subject to the rules applica-
2	ble to individuals not lawfully present that are
3	set forth in subsection (e) of such section;
4	"(C) shall be subject to the rules applicable
5	to individuals not lawfully present that are set
6	forth in section 1402(e) of the Patient Protec-
7	tion and Affordable Care Act (42 U.S.C.
8	18071); and
9	"(D) shall be subject to the rules applica-
10	ble to individuals not lawfully present set forth
11	in section 5000A(d)(3) of the Internal Revenue
12	Code of 1986.
13	"(5) Assignment of social security num-
14	BER.—
15	"(A) IN GENERAL.—The Commissioner of
16	Social Security, in coordination with the Sec-
17	retary, shall implement a system to allow for
18	the assignment of a Social Security number and
19	the issuance of a Social Security card to each
20	alien who has been granted registered provi-
21	sional immigrant status under this section.
22	"(B) USE OF INFORMATION.—The Sec-
23	retary shall provide the Commissioner of Social
24	Security with information from the applications
25	filed by aliens granted registered provisional im-

migrant status under this section and such 1 2 other information as the Commissioner deter-3 mines to be necessary to assign a Social Secu-4 rity account number to such aliens. The Commissioner may use information received from 6 the Secretary under this subparagraph to as-7 sign Social Security account numbers to such 8 aliens and to administer the programs of the 9 Social Security Administration. The Commis-10 sioner may maintain, use, and disclose such in-11 formation only as permitted under section 552a 12 of title 5, United States Code (commonly known 13 as the Privacy Act of 1974) and other applica-14 ble Federal laws.

"(e) Dissemination of Information on Reg-15 ISTERED PROVISIONAL IMMIGRANT PROGRAM.—As soon 16 17 as practicable after the date of the enactment of the Bor-18 der Security, Economic Opportunity, and Immigration 19 Modernization Act, the Secretary, in cooperation with entities approved by the Secretary, and in accordance with 20 21 a plan adopted by the Secretary, shall broadly disseminate, in the most common languages spoken by aliens who would qualify for registered provisional immigrant status under this section, to television, radio, print, and social media to which such aliens would likely have access—

1	"(1) the procedures for applying for such sta-
2	tus;
3	"(2) the terms and conditions of such status;
4	and
5	"(3) the eligibility requirements for such sta-
6	tus.".
7	(b) Enlistment in the Armed Forces.—Section
8	504(b)(1) of title 10, United States Code, is amended by
9	adding at the end the following:
10	"(D) An alien who has been granted registered
11	provisional immigrant status under section 245B of
12	the Immigration and Nationality Act.".
13	SEC. 2102. ADJUSTMENT OF STATUS OF REGISTERED PRO-
IJ	
14	VISIONAL IMMIGRANTS.
14	VISIONAL IMMIGRANTS.
14 15	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
14 15 16 17	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B,
14 15 16 17	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following:
14 15 16 17	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following: "SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PRO-
14 15 16 17 18	VISIONAL IMMIGRANTS. (a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following: "SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANTS.
14 15 16 17 18 19 20	VISIONAL IMMIGRANTS. (a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following: "SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANTS. "(a) In General.—Subject to section 245E(d) and
14 15 16 17 18 19 20	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following: "SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANTS. "(a) IN GENERAL.—Subject to section 245E(d) and section 2302(c)(3) of the Border Security, Economic Op-
14 15 16 17 18 19 20 21 22 23	VISIONAL IMMIGRANTS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245B, as added by section 2101 of this title, the following: "SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANTS. "(a) IN GENERAL.—Subject to section 245E(d) and section 2302(c)(3) of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Sec-

1	isfies the eligibility requirements set forth in subsection
2	(b).
3	"(b) Eligibility Requirements.—
4	"(1) REGISTERED PROVISIONAL IMMIGRANT
5	STATUS.—
6	"(A) IN GENERAL.—The alien was granted
7	registered provisional immigrant status under
8	section 245B and remains eligible for such sta-
9	tus.
10	"(B) Continuous Physical Presence.—
11	The alien establishes, to the satisfaction of the
12	Secretary, that the alien was not continuously
13	absent from the United States for more than
14	180 days in any calendar year during the pe-
15	riod of admission as a registered provisional im-
16	migrant, unless the alien's absence was due to
17	extenuating circumstances beyond the alien's
18	control.
19	"(C) Maintenance of waivers of inad-
20	MISSIBILITY.—The grounds of inadmissibility
21	set forth in section 212(a) that were previously
22	waived for the alien or made inapplicable under
23	section 245B(b) shall not apply for purposes of
24	the alien's adjustment of status under this sec-
25	tion.

"(D) 1 PENDING REVOCATION PRO-2 CEEDINGS.—If the Secretary has notified the 3 applicant that the Secretary intends to revoke 4 the applicant's registered provisional immigrant 5 status under section 245B(d)(2)(A), the Sec-6 retary may not approve an application for ad-7 justment of status under this section unless the 8 Secretary makes a final determination not to 9 revoke the applicant's status. 10

"(2) Payment of Taxes.—

- "(A) IN GENERAL.—An applicant may not file an application for adjustment of status under this section unless the applicant has satisfied any applicable Federal tax liability.
- "(B) Definition of Applicable fed-ERAL TAX LIABILITY.—In subparagraph (A), the term 'applicable Federal tax liability' means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 since the date on which the applicant was authorized to work in the United States as a registered provisional immigrant under section 245B(a).
- "(C) COMPLIANCE.—The applicant may demonstrate compliance with subparagraph (A)

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1	by submitting such documentation as the Sec-
2	retary, in consultation with the Secretary of the
3	Treasury, may require by regulation.
4	"(3) Employment requirement.—
5	"(A) In general.—Except as provided in
6	subparagraphs (D) and (E), an alien applying
7	for adjustment of status under this section shall
8	establish that, during his or her period of status
9	as a registered provisional immigrant, he or
10	she—
11	``(i)(I) was regularly employed
12	throughout the period of admission as a
13	registered provisional immigrant, allowing
14	for brief periods lasting not more than 60
15	days; and
16	"(II) is not likely to become a public
17	charge (as determined under section
18	212(a)(4); or
19	"(ii) can demonstrate average income
20	or resources that are not less than 125
21	percent of the Federal poverty level
22	throughout the period of admission as a
23	registered provisional immigrant.
24	"(B) EVIDENCE OF EMPLOYMENT.—

1	"(i) Documents.—An alien may sat-
2	isfy the employment requirement under
3	subparagraph (A)(i) by submitting, to the
4	Secretary, records that—
5	"(I) establish, by the preponder-
6	ance of the evidence, compliance with
7	such employment requirement; and
8	"(II) have been maintained by
9	the Social Security Administration,
10	the Internal Revenue Service, or any
11	other Federal, State, or local govern-
12	ment agency.
13	"(ii) Other documents.—An alien
14	who is unable to submit the records de-
15	scribed in clause (i) may satisfy the em-
16	ployment or education requirement under
17	subparagraph (A) by submitting to the
18	Secretary at least 2 types of reliable docu-
19	ments not described in clause (i) that pro-
20	vide evidence of employment or education,
21	including—
22	"(I) bank records;
23	"(II) business records;
24	"(III) employer records;

1	"(IV) records of a labor union,
2	day labor center, or organization that
3	assists workers in employment;
4	"(V) sworn affidavits from non-
5	relatives who have direct knowledge of
6	the alien's work or education, that
7	contain—
8	"(aa) the name, address,
9	and telephone number of the affi-
10	ant;
11	"(bb) the nature and dura-
12	tion of the relationship between
13	the affiant and the alien; and
14	"(cc) other verification or
15	information;
16	"(VI) remittance records; and
17	"(VII) school records from insti-
18	tutions described in subparagraph
19	(D).
20	"(iii) Additional documents and
21	RESTRICTIONS.—The Secretary may—
22	"(I) designate additional docu-
23	ments that may be used to establish
24	compliance with the requirement
25	under subparagraph (A); and

1	"(II) set such terms and condi-
2	tions on the use of affidavits as may
3	be necessary to verify and confirm the
4	identity of any affiant or to otherwise
5	prevent fraudulent submissions.
6	"(C) Satisfaction of employment re-
7	QUIREMENT.—An alien may not be required to
8	satisfy the employment requirements under this
9	section with a single employer.
10	"(D) Education permitted.—An alien
11	may satisfy the requirement under subpara-
12	graph (A), in whole or in part, by providing evi-
13	dence of full-time attendance at—
14	"(i) an institution of higher education
15	(as defined in section 102(a) of the Higher
16	Education Act of 1965 (20 U.S.C.
17	1002(a)));
18	"(ii) a secondary school, including a
19	public secondary school (as defined in sec-
20	tion 9101 of the Elementary and Sec-
21	ondary Education Act of 1965 (20 U.S.C.
22	7801));
23	"(iii) an education, literacy, or career
24	and technical training program (including
25	vocational training) that is designed to

1	lead to placement in postsecondary edu-
2	cation, job training, or employment
3	through which the alien is working toward
4	such placement; or
5	"(iv) an education program assisting
6	students either in obtaining a high school
7	equivalency diploma, certificate, or its rec-
8	ognized equivalent under State law (includ-
9	ing a certificate of completion, certificate
10	of attendance, or alternate award), or in
11	passing a General Educational Develop-
12	ment exam or other equivalent State-au-
13	thorized exam or completed other applica-
14	ble State requirements for high school
15	equivalency.
16	"(E) Authorization of exceptions
17	AND WAIVERS.—
18	"(i) Exceptions based on age or
19	DISABILITY.—The employment and edu-
20	cation requirements under this paragraph
21	shall not apply to any alien who—
22	"(I) is younger than 21 years of
23	age on the date on which the alien
24	files an application for the first exten-
25	sion of the initial period of authorized

1	admission as a registered provisional
2	immigrant;
3	"(II) is at least 60 years of age
4	on the date on which the alien files an
5	application for an extension of reg-
6	istered provisional immigrant status
7	or at least 65 years of age on the date
8	on which the alien's application for
9	adjustment of status is filed under
10	this section; or
11	"(III) has a physical or mental
12	disability (as defined in section 3(2)
13	of the Americans with Disabilities Act
14	of 1990 (42 U.S.C. 12102(2))) or as
15	a result of pregnancy if such condition
16	is evidenced by the submission of doc-
17	umentation prescribed by the Sec-
18	retary.
19	"(ii) Family exceptions.—The em-
20	ployment and education requirements
21	under this paragraph shall not apply to
22	any alien who is a dependent registered
23	provisional immigrant under subsection
24	(b)(5).

1	"(iii) Temporary exceptions.—The
2	employment and education requirements
3	under this paragraph shall not apply dur-
4	ing any period during which the alien—
5	"(I) was on medical leave, mater-
6	nity leave, or other employment leave
7	authorized by Federal law, State law,
8	or the policy of the employer;
9	"(II) is or was the primary care-
10	taker of a child or another person who
11	requires supervision or is unable to
12	care for himself or herself; or
13	"(III) was unable to work due to
14	circumstances outside the control of
15	the alien.
16	"(iv) Waiver.—The Secretary may
17	waive the employment or education re-
18	quirements under this paragraph with re-
19	spect to any individual alien who dem-
20	onstrates extreme hardship to himself or
21	herself or to a spouse, parent, or child who
22	is a United States citizen or lawful perma-
23	nent resident.
24	"(4) English skills.—

1	"(A) In general.—Except as provided
2	under subparagraph (C), a registered provi-
3	sional immigrant who is 16 years of age or
4	older shall establish that he or she—
5	"(i) meets the requirements set forth
6	in section 312; or
7	"(ii) is satisfactorily pursuing a
8	course of study, pursuant to standards es-
9	tablished by the Secretary of Education, in
10	consultation with the Secretary, to achieve
11	an understanding of English and knowl-
12	edge and understanding of the history and
13	Government of the United States, as de-
14	scribed in section 312(a).
15	"(B) Relation to naturalization ex-
16	AMINATION.—A registered provisional immi-
17	grant who demonstrates that he or she meets
18	the requirements set forth in section 312 may
19	be considered to have satisfied such require-
20	ments for purposes of becoming naturalized as
21	a citizen of the United States.
22	"(C) Exceptions.—
23	"(i) Mandatory.—Subparagraph (A)
24	shall not apply to any person who is unable
25	to comply with the requirements under

1	that subparagraph because of a physical or
2	developmental disability or mental impair-
3	ment.

- "(ii) DISCRETIONARY.—The Secretary may waive all or part of subparagraph (A) for a registered provisional immigrant who is 70 years of age or older on the date on which an application is filed for adjustment of status under this section.
- "(5) MILITARY SELECTIVE SERVICE.—The alien shall provide proof of registration under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), if the alien is subject to such registration on or after the date on which the alien's application for registered provisional immigrant status is granted.

"(c) Application Procedures.—

"(1) In General.—Beginning on the date described in paragraph (2), a registered provisional immigrant, or a registered provisional immigrant dependent, who meets the eligibility requirements set forth in subsection (b) may apply for adjustment of status to that of an alien lawfully admitted for permanent residence by submitting an application to the Secretary that includes the evidence required, by

- regulation, to demonstrate the applicant's eligibility for such adjustment.
 - "(2) Back of the line.—The status of a registered provisional immigrant may not be adjusted to that of an alien lawfully admitted for permanent residence under this section until after the Secretary of State certifies that immigrant visas have become available for all approved petitions for immigrant visas that were filed under sections 201 and 203 before the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.
 - "(3) Interview.—The Secretary may interview applicants for adjustment of status under this section to determine whether they meet the eligibility requirements set forth in subsection (b).
 - "(4) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The Secretary may not adjust the status of a registered provisional immigrant under this section until renewed national security and law enforcement clearances have been completed with respect to the registered provisional immigrant, to the satisfaction of the Secretary.
- 24 "(5) FEES AND PENALTIES.—
- 25 "(A) Processing fees.—

1	"(i) In General.—The Secretary
2	shall impose a processing fee on applicants
3	for adjustment of status under this section
4	at a level sufficient to recover the full cost
5	of processing such applications, including
6	costs associated with—
7	"(I) adjudicating the applica-
8	tions;
9	"(II) taking and processing bio-
10	metrics;
11	"(III) performing national secu-
12	rity and criminal checks, including ad-
13	judication;
14	"(IV) preventing and inves-
15	tigating fraud; and
16	"(V) the administration of the
17	fees collected.
18	"(ii) Authority to limit fees.—
19	The Secretary, by regulation, may—
20	"(I) limit the maximum proc-
21	essing fee payable under this subpara-
22	graph by a family, including spouses
23	and children; and

1	"(II) exempt other defined class-
2	es of individuals from the payment of
3	the fee authorized under clause (i).
4	"(iii) Deposit and use of fees.—
5	Fees collected under this subparagraph—
6	"(I) shall be deposited into the
7	Immigration Examinations Fee Ac-
8	count pursuant to section 286(m);
9	and
10	"(II) shall remain available until
11	expended pursuant to section 286(n).
12	"(B) Penalties.—
13	"(i) In general.—In addition to the
14	processing fee required under subpara-
15	graph (A) and the penalty required under
16	section $245B(c)(6)(D)$, an alien who was
17	21 years of age or older on the date on
18	which the Border Security, Economic Op-
19	portunity, and Immigration Modernization
20	Act was originally introduced in the Senate
21	and is filing an application for adjustment
22	of status under this section shall pay a
23	\$1,000 penalty to the Secretary unless the
24	alien meets the requirements under section
25	245D(b).

1	"(ii) Installments.—The Secretary	
2	shall establish a process for collecting pay-	
3	ments required under clause (i) through	
4	periodic installments.	
5	"(iii) Deposit, allocation, and	
6	SPENDING OF PENALTIES.—Penalties col-	
7	lected under this subparagraph—	
8	"(I) shall be deposited into the	
9	Comprehensive Immigration Trust	
10	Fund established under section	
11	6(a)(1) of the Border Security, Eco-	
12	nomic Opportunity, and Immigration	
13	Modernization Act; and	
14	"(II) may be used for the pur-	
15	poses set forth in section 6(a)(3)(B	
16	of such Act.".	
17	(b) Limitation on Registered Provisional Immi-	
18	GRANTS.—An alien admitted as a registered provisional	
19	immigrant under section 245B of the Immigration and	
20	Nationality Act, as added by subsection (a), may only ad-	
21	just status to an alien lawfully admitted for permanent	
22	resident status under section 245C or 245D of such Act	
23	or section 2302.	
24	(c) Naturalization.—Section 319 (8 U.S.C. 1430)	
25	is amended—	

1	(1) in the section heading, by striking "AND
2	EMPLOYEES OF CERTAIN NONPROFIT ORGANI-
3	ZATIONS" and inserting ", EMPLOYEES OF CER-
4	TAIN NONPROFIT ORGANIZATIONS, AND OTHER
5	LONG-TERM LAWFUL RESIDENTS"; and
6	(2) by adding at the end the following:
7	"(f) Any lawful permanent resident who was lawfully
8	present in the United States and eligible for work author-
9	ization for not less than 10 years before becoming a lawful
10	permanent resident may be naturalized upon compliance
11	with all the requirements under this title except the provi-
12	sions of section 316(a)(1) if such person, immediately pre-
13	ceding the date on which the person filed an application
14	for naturalization—
15	"(1) has resided continuously within the United
16	States, after being lawfully admitted for permanent
17	residence, for at least 3 years;
18	"(2) during the 3-year period immediately pre-
19	ceding such filing date, has been physically present
20	in the United States for periods totaling at least 50
21	percent of such period; and
22	"(3) has resided within the State or in the ju-
23	risdiction of the U.S. Citizenship and Immigration
24	Services field office in the United States in which

1	the applicant filed such application for at least 3
2	months.".
3	SEC. 2103. THE DREAM ACT.
4	(a) Short Title.—This section may be cited as the
5	"Development, Relief, and Education for Alien Minors Act
6	of 2013" or the "DREAM Act 2013".
7	(b) Adjustment of Status for Certain Aliens
8	Who Entered the United States as Children.—
9	Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended
10	by inserting after section 245C, as added by section 2102
11	of this title, the following:
12	"SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS
13	WHO ENTERED THE UNITED STATES AS CHIL
	WHO ENTERED THE UNITED STATES AS CHIL-
14	
14 15	DREN.
14 15 16	DREN. "(a) DEFINITIONS.—In this section:
14 15 16 17	DREN."(a) DEFINITIONS.—In this section:"(1) Institution of Higher Education.—
14 15 16 17	"(a) Definitions.—In this section: "(1) Institution of higher education.— The term 'institution of higher education' has the
114 115 116 117 118	"(a) Definitions.—In this section: "(1) Institution of higher education.— The term 'institution of higher education' has the meaning given such term in section 102 of the High-
14 15 16 17 18 19 20	"(a) DEFINITIONS.—In this section: "(1) Institution of Higher Education.— The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except
14 15 16 17 18 19 20 21	"(a) Definitions.—In this section: "(1) Institution of Higher Education.— The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include institutions described
13 14 15 16 17 18 19 20 21 22 23	"(a) Definitions.—In this section: "(1) Institution of Higher Education.— The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include institutions described in subsection (a)(1)(C) of such section.
14 15 16 17 18 19 20 21	"(a) Definitions.—In this section: "(1) Institution of higher education,— The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include institutions described in subsection (a)(1)(C) of such section. "(2) Secretary.—The term 'Secretary' means

1	'uniformed services' in section 101(a)(5) of title 10,
2	United States Code.
3	"(b) Adjustment of Status for Certain Aliens
4	Who Entered the United States as Children.—
5	"(1) Requirements.—
6	"(A) In General.—The Secretary may
7	adjust the status of a registered provisional im-
8	migrant to the status of a lawful permanent
9	resident if the immigrant demonstrates that he
10	or she—
11	"(i) has been a registered provisional
12	immigrant for at least 5 years;
13	"(ii) was younger than 16 years of
14	age on the date on which the alien initially
15	entered the United States;
16	"(iii) has earned a high school di-
17	ploma, a commensurate alternative award
18	from a public or private high school or sec-
19	ondary school, or has obtained a general
20	education development certificate recog-
21	nized under State law, or a high school
22	equivalency diploma in the United States;
23	"(iv)(I) has acquired a degree from an
24	institution of higher education or has com-
25	pleted at least 2 years, in good standing,

1	in a program for a bachelor's degree or
2	higher degree in the United States; or
3	"(II) has served in the Uniformed
4	Services for at least 4 years and, if dis-
5	charged, received an honorable discharge;
6	and
7	"(v) has provided a list of each sec-
8	ondary school (as that term is defined in
9	section 9101 of the Elementary and Sec-
10	ondary Education Act of 1965 (20 U.S.C.
11	7801)) that the alien attended in the
12	United States.
13	"(B) Hardship exception.—
14	"(i) In General.—The Secretary
15	may adjust the status of a registered provi-
16	sional immigrant to the status of a lawful
17	permanent resident if the alien—
18	"(I) satisfies the requirements
19	under clauses (i), (ii), (iii), and (v) of
20	subparagraph (A); and
21	``(II) demonstrates compelling
22	circumstances for the inability to sat-
23	isfy the requirement under subpara-
24	graph (A)(iv).
25	"(C) CITIZENSHIP REQUIREMENT.—

1	"(i) In general.—Except as pro-
2	vided in clause (ii), the Secretary may not
3	adjust the status of an alien to lawful per-
4	manent resident status under this section
5	unless the alien demonstrates that the
6	alien satisfies the requirements under sec-
7	tion 312(a).
8	"(ii) Exception.—Clause (i) shall
9	not apply to an alien whose physical or de-
10	velopmental disability or mental impair-
11	ment prevents the alien from meeting the
12	requirements such section.
13	"(D) Submission of biometric and bio-
14	GRAPHIC DATA.—The Secretary may not adjust
15	the status of an alien to lawful permanent resi-
16	dent status unless the alien—
17	"(i) submits biometric and biographic
18	data, in accordance with procedures estab-
19	lished by the Secretary; or
20	"(ii) complies with an alternative pro-
21	cedure prescribed by the Secretary, if the
22	alien is unable to provide such biometric
23	data because of a physical impairment.
24	"(E) Background Checks.—

1	"(i) Requirement for background
2	CHECKS.—The Secretary shall utilize bio-
3	metric, biographic, and other data that the
4	Secretary determines appropriate—
5	"(I) to conduct national security
6	and law enforcement background
7	checks of an alien applying for lawful
8	permanent resident status under this
9	section; and
10	"(II) to determine whether there
11	is any criminal, national security, or
12	other factor that would render the
13	alien ineligible for such status.
14	"(ii) Completion of background
15	CHECKS.—The Secretary may not adjust
16	an alien's status to the status of a lawful
17	permanent resident under this subsection
18	until the national security and law enforce-
19	ment background checks required under
20	clause (i) have been completed with respect
21	to the alien, to the satisfaction of the Sec-
22	retary.
23	"(2) Application for Lawful Permanent
24	RESIDENT STATUS.—

1	"(A) In General.—A registered provi-
2	sional immigrant seeking lawful permanent resi-
3	dent status shall file an application for such
4	status in such manner as the Secretary may re-
5	quire.
6	"(B) ADJUDICATION.—
7	"(i) In General.—The Secretary
8	shall evaluate each application filed by a
9	registered provisional immigrant under this
10	paragraph to determine whether the alien
11	meets the requirements under paragraph
12	(1).
13	"(ii) Adjustment of status if fa-
14	VORABLE DETERMINATION.—If the Sec-
15	retary determines that the alien meets the
16	requirements under paragraph (1), the
17	Secretary shall notify the alien of such de-
18	termination and adjust the status of the
19	alien to lawful permanent resident status,
20	effective as of the date of such determina-
21	tion.
22	"(iii) Adverse determination.—If
23	the Secretary determines that the alien
04	does not meet the requirements under

1	paragraph (1), the Secretary shall notify
2	the alien of such determination.
3	"(C) DACA RECIPIENTS.—The Secretary
4	may adopt streamlined procedures for appli-
5	cants for adjustment to lawful permanent resi-
6	dent status under this section who were granted
7	Deferred Action for Childhood Arrivals pursu-
8	ant to the Secretary's memorandum of June
9	15, 2012.
10	"(3) Treatment for purposes of natu-
11	RALIZATION.—
12	"(A) In general.—An alien granted law-
13	ful permanent resident status under this section
14	shall be considered, for purposes of title III—
15	"(i) to have been lawfully admitted for
16	permanent residence; and
17	"(ii) to have been in the United
18	States as an alien lawfully admitted to the
19	United States for permanent residence
20	during the period the alien was a reg-
21	istered provisional immigrant.
22	"(B) Limitation on application for
23	NATURALIZATION.—An alien may not apply for
24	naturalization while the alien is in registered
25	provisional immigrant status, except for an

1	alien described in paragraph (1)(A)(ii) pursuant
2	to section 328 or 329.".
3	(e) Exemption From Numerical Limitations.—
4	Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended—
5	(1) by redesignating subparagraph (E) as sub-
6	paragraph (F); and
7	(2) by inserting after subparagraph (D) the fol-
8	lowing:
9	"(E) Aliens whose status is adjusted to perma-
10	nent resident status under section 245C or 245D.".
11	(d) RESTORATION OF STATE OPTION TO DETER-
12	MINE RESIDENCY FOR PURPOSES OF HIGHER EDU-
13	CATION.—
14	(1) Repeal.—Section 505 of the Illegal Immi-
15	gration Reform and Immigrant Responsibility Act of
16	1996 (8 U.S.C. 1623) is repealed.
17	(2) Effective date.—The repeal under para-
18	graph (1) shall take effect as if included in the origi-
19	nal enactment of the Illegal Immigration Reform
20	and Immigrant Responsibility Act of 1996 (division
21	C of Public Law 104–208).
22	(e) Naturalization.—Section 328(a) (8 U.S.C.
23	1439(a)) is amended by inserting ", without having been
24	lawfully admitted to the United States for permanent resi-
25	dent, and" after "naturalized".

1	(f) Limitation on Federal Student Assist-
2	ANCE.—Notwithstanding any other provision of law, aliens
3	granted registered provisional immigrant status and who
4	initially entered the United States before reaching 16
5	years of age and aliens granted blue card status shall be
6	eligible only for the following assistance under title IV of
7	the Higher Education Act of 1965 (20 U.S.C. 1070 et
8	seq.):
9	(1) Student loans under parts D and E of such
10	title IV (20 U.S.C. 1087a et seq. and 1087aa et
11	seq.), subject to the requirements of such parts.
12	(2) Federal work-study programs under part C
13	of such title IV (42 U.S.C. 2751 et seq.), subject to
14	the requirements of such part.
15	(3) Services under such title IV (20 U.S.C.
16	1070 et seq.), subject to the requirements for such
17	services.
18	SEC. 2104. ADDITIONAL REQUIREMENTS.
19	(a) In General.—Chapter 5 of title II (8 U.S.C.
20	1255 et seq.) is amended by inserting after section 245C
21	as added by section 2102 of this title, the following:
22	"SEC. 245E. ADDITIONAL REQUIREMENTS RELATING TO
23	REGISTERED PROVISIONAL IMMIGRANTS
24	AND OTHERS.

25

"(a) DISCLOSURES.—

1	"(1) Prohibited disclosures.—Except as
2	otherwise provided in this subsection, no officer or
3	employee of any Federal agency may—
4	"(A) use the information furnished in an
5	application for lawful status under section
6	245B, 245C, or 245D for any purpose other
7	than to make a determination on any applica-
8	tion by the alien for any immigration benefit or
9	protection;
10	"(B) make any publication through which
11	information furnished by any particular appli-
12	cant can be identified; or
13	"(C) permit anyone other than the sworn
14	officers, employees, and contractors of such
15	agency or of another entity approved by the
16	Secretary to examine any individual application
17	for lawful status under section 245B, 245C, or
18	245D.
19	"(2) Required disclosures.—The Secretary
20	shall provide the information furnished in an appli-
21	cation filed under section 245B, 245C, or 245D and
22	any other information derived from such furnished
23	information to—
24	"(A) a law enforcement agency, intel-
25	ligence agency, national security agency, a com-

I	ponent of the Department of Homeland Secu-
2	rity, court, or grand jury, consistent with law,
3	in connection with—
4	"(i) a criminal investigation or pros-
5	ecution of any felony not related to the ap-
6	plicant's immigration status; or
7	"(ii) a national security investigation
8	or prosecution; and
9	"(B) an official coroner for purposes of af-
10	firmatively identifying a deceased individual,
11	whether or not the death of such individual re-
12	sulted from a crime.
13	"(3) Auditing and evaluation of informa-
14	TION.—The Secretary may—
15	"(A) audit and evaluate information fur-
16	nished as part of any application filed under
17	section 245B, 245C, or 245D for purposes of
18	identifying immigration fraud or fraud schemes;
19	and
20	"(B) use any evidence detected by means
21	of audits and evaluations for purposes of inves-
22	tigating, prosecuting, referring for prosecution,
23	or denying or terminating immigration benefits.
24	"(b) Employer Protections.—

1 "(1) Use of employment records.—Copies of employment records or other evidence of employ-2 3 ment provided by an alien or by an alien's employer 4 in support of an alien's application for registered 5 provisional immigrant status under section 245B 6 may not be used in a civil or criminal prosecution 7 or investigation of that employer under section 274A 8 or the Internal Revenue Code of 1986 for the prior 9 unlawful employment of that alien regardless of the 10 adjudication of such application or reconsideration 11 by the Secretary of such alien's prima facie eligi-12 bility determination. Employers that provide unau-13 thorized aliens with copies of employment records or 14 other evidence of employment pursuant to an appli-15 cation for registered provisional immigrant status 16 shall not be subject to civil and criminal liability 17 pursuant to section 274A for employing such unau-18 thorized aliens.

- "(2) LIMIT ON APPLICABILITY.—The protections for employers and aliens under paragraph (1) shall not apply if the aliens or employers submit employment records that are deemed to be fraudulent. "(c) ADMINISTRATIVE REVIEW.—
- 24 "(1) Exclusive administrative review.—
 25 Administrative review of a determination respecting

19

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22

1	an application for status under section 245B, 245C,
2	245D, or 245F or section 2211 of the Agricultural
3	Worker Program Act of 2013 shall be conducted
4	solely in accordance with this subsection.
5	"(2) Administrative appellate review.—
6	"(A) ESTABLISHMENT OF ADMINISTRA-
7	TIVE APPELLATE AUTHORITY.—The Secretary
8	shall establish or designate an appellate author-
9	ity to provide for a single level of administrative
10	appellate review of a determination with respect
11	to applications for, or revocation of, status
12	under sections 245B, 245C, and 245D.
13	"(B) SINGLE APPEAL FOR EACH ADMINIS-
14	TRATIVE DECISION.—
15	"(i) In General.—An alien in the
16	United States whose application for status
17	under section 245B, 245C, or 245D has
18	been denied or revoked may file with the
19	Secretary not more than 1 appeal of each
20	decision to deny or revoke such status.
21	"(ii) Notice of Appeal.—A notice of
22	appeal filed under this subparagraph shall
23	be filed not later than 90 days after the
24	date of service of the decision of denial or

1	revocation, unless the delay was reasonably
2	justifiable.
3	"(C) REVIEW BY SECRETARY.—Nothing in
4	this paragraph may be construed to limit the
5	authority of the Secretary to certify appeals for
6	review and final administrative decision.
7	"(D) Denial of Petitions for Depend-
8	ENTS.—Appeals of a decision to deny or revoke
9	a petition filed by a registered provisional immi-
10	grant pursuant to regulations promulgated
11	under section 245B to classify a spouse or child
12	of such alien as a registered provisional immi-
13	grant shall be subject to the administrative ap-
14	pellate authority described in subparagraph (A).
15	"(E) Stay of removal.—Aliens seeking
16	administrative review shall not be removed from
17	the United States until a final decision is ren-
18	dered establishing ineligibility for status under
19	section 245B, 245C, or 245D.
20	"(3) Record for review.—Administrative ap-
21	pellate review under paragraph (2) shall be de novo
22	and based solely upon—
23	"(A) the administrative record established
24	at the time of the determination on the applica-
25	tion; and

1 "(B) any additional newly discovered or 2 previously unavailable evidence.

"(4) UNLAWFUL PRESENCE.—During the period in which an alien may request administrative review under this subsection, and during the period that any such review is pending, the alien shall not be considered 'unlawfully present in the United States' for purposes of section 212(a)(9)(B).

"(d) PRIVACY AND CIVIL LIBERTIES.—

- "(1) IN GENERAL.—The Secretary, in accordance with subsection (a)(1), shall require appropriate administrative and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable information collected, maintained, and disseminated pursuant to sections 245B, 245C, and 245D.
- "(2) Assessments.—Notwithstanding the privacy requirements set forth in section 222 of the Homeland Security Act (6 U.S.C. 142) and the E-Government Act of 2002 (Public Law 107–347), the Secretary shall conduct a privacy impact assessment and a civil liberties impact assessment of the legalization program established under sections 245B, 245C, and 245D during the pendency of the interim final regulations required to be issued under section

1	2110 of the Border Security, Economic Opportunity,
2	and Immigration Modernization Act.".
3	(b) Judicial Review.—Section 242 (8 U.S.C. 1252)
4	is amended—
5	(1) in subsection (a)(2)—
6	(A) in subparagraph (B), by inserting "the
7	exercise of discretion arising under" after "no
8	court shall have jurisdiction to review";
9	(B) in subparagraph (D), by striking
10	"raised upon a petition for review filed with an
11	appropriate court of appeals in accordance with
12	this section";
13	(2) in subsection (b)(2), by inserting "or, in the
14	case of a decision rendered under section 245E(c),
15	in the judicial circuit in which the petitioner resides"
16	after "proceedings"; and
17	(3) by adding at the end the following:
18	"(h) Judicial Review of Eligibility Determina-
19	TIONS RELATING TO STATUS UNDER CHAPTER 5.—
20	"(1) Direct review.—If an alien's application
21	under section 245B, 245C, 245D, or 245F or sec-
22	tion 2211 of the Agricultural Worker Program Act
23	of 2013 is denied, or is revoked after the exhaustion
24	of administrative appellate review under section
25	245E(c), the alien may seek review of such decision.

1	in accordance with chapter 7 of title 5, United
2	States Code, before the United States district court
3	for the district in which the person resides.
4	"(2) STATUS DURING REVIEW.—While a review
5	described in paragraph (1) is pending—
6	"(A) the alien shall not be deemed to ac-
7	crue unlawful presence for purposes of section
8	212(a)(9);
9	"(B) any unexpired grant of voluntary de-
10	parture under section 240B shall be tolled; and
11	"(C) the court shall have the discretion to
12	stay the execution of any order of exclusion, de-
13	portation, or removal.
14	"(3) Review After Removal Pro-
15	CEEDINGS.—An alien may seek judicial review of a
16	denial or revocation of approval of the alien's appli-
17	cation under section 245B, 245C, or 245D in the
18	appropriate United States court of appeal in con-
19	junction with the judicial review of an order of re-
20	moval, deportation, or exclusion if the validity of the
21	denial has not been upheld in a prior judicial pro-
22	ceeding under paragraph (1).
23	"(4) Standard for Judicial Review.—
24	"(A) Basis.—Judicial review of a denial,
25	or revocation of an approval, of an application

1	under section 245B, 245C, or 245D shall be
2	based upon the administrative record estab-
3	lished at the time of the review.
4	"(B) AUTHORITY TO REMAND.—The re-
5	viewing court may remand a case under this
6	subsection to the Secretary for consideration of
7	additional evidence if the court finds that—
8	"(i) the additional evidence is mate-
9	rial; and
10	"(ii) there were reasonable grounds
11	for failure to adduce the additional evi-
12	dence before the Secretary.
13	"(C) Scope of Review.—Notwithstanding
14	any other provision of law, judicial review of all
15	questions arising from a denial, or revocation of
16	an approval, of an application under section
17	245B, 245C, or 245D shall be governed by the
18	standard of review set forth in section 706 of
19	title 5, United States Code.
20	"(5) Remedial powers.—
21	"(A) Jurisdiction.—Notwithstanding any
22	other provision of law, the United States dis-
23	trict courts shall have jurisdiction over any
24	cause or claim arising from a pattern or prac-
25	tice of the Secretary in the operation or imple-

1	mentation of the Border Security, Economic
2	Opportunity, and Immigration Modernization
3	Act, or the amendments made by such Act, that
4	is arbitrary, capricious, or otherwise contrary to
5	law.
6	"(B) Scope of Relief.—The United
7	States district courts may order any appro-
8	priate relief in a clause or claim described in
9	subparagraph (A) without regard to exhaustion,
10	ripeness, or other standing requirements (other
11	than constitutionally-mandated requirements),
12	if the court determines that—
13	"(i) the resolution of such cause or
14	claim will serve judicial and administrative
15	efficiency; or
16	"(ii) a remedy would otherwise not be
17	reasonably available or practicable.
18	"(6) Challenges to the validity of the
19	SYSTEM.—
20	"(A) In general.—Except as provided in
21	paragraph (5), any claim that section 245B,
22	245C, 245D, or 245E or any regulation, writ-
23	ten policy, or written directive, issued or un-
24	written policy or practice initiated by or under
25	the authority of the Secretary to implement

1	such sections, violates the Constitution of the
2	United States or is otherwise in violation of law
3	is available exclusively in an action instituted in
4	United States District Court in accordance with
5	the procedures prescribed in this paragraph.
6	"(B) Savings provision.—Except as pro-
7	vided in subparagraph (C), nothing in subpara-
8	graph (A) may be construed to preclude an ap-
9	plicant under 245B, 245C, or 245D from as-
10	serting that an action taken or a decision made
11	by the Secretary with respect to the applicant's
12	status was contrary to law.
13	"(C) CLASS ACTIONS.—Any claim de-
14	scribed in subparagraph (A) that is brought as
15	a class action shall be brought in conformity
16	with—
17	"(i) the Class Action Fairness Act of
18	2005 (Public Law 109–2); and
19	"(ii) the Federal Rules of Civil Proce-
20	dure.
21	"(D) Preclusive effect.—The final dis-
22	position of any claim brought under subpara-
23	graph (A) shall be preclusive of any such claim
24	asserted by the same individual in a subsequent
25	proceeding under this subsection.

1	"(E) EXHAUSTION AND STAY OF PRO-
2	CEEDINGS.—
3	"(i) In general.—No claim brought
4	under this paragraph shall require the
5	plaintiff to exhaust administrative rem-
6	edies under section 245E(c).
7	"(ii) Stay authorized.—Nothing in
8	this paragraph may be construed to pre-
9	vent the court from staying proceedings
10	under this paragraph to permit the Sec-
11	retary to evaluate an allegation of an un-
12	written policy or practice or to take correc-
13	tive action. In determining whether to
14	issue such a stay, the court shall take into
15	account any harm the stay may cause to
16	the claimant.".
17	(c) Rule of Construction.—Section 244(h) of the
18	Immigration and Nationality Act (8 U.S.C. 1254a(h))
19	shall not limit the authority of the Secretary to adjust the
20	status of an alien under section 245C or 245D of the Im-
21	migration and Nationality Act, as added by this subtitle.
22	(d) Effect of Failure To Register on Eligi-
23	BILITY FOR IMMIGRATION BENEFITS.—Failure to comply
24	with section 264.1(f) of title 8, Code of Federal Regula-
25	tions or with removal orders or voluntary departure agree-

- 1 ments based on such section for acts committed before the
- 2 date of the enactment of this Act shall not affect the eligi-
- 3 bility of an alien to apply for a benefit under the Immigra-
- 4 tion and Nationality Act (8 U.S.C. 1101 et seq.).
- 5 (e) CLERICAL AMENDMENT.—The table of contents
- 6 is amended by inserting after the item relating to section
- 7 245A the following:
 - "Sec. 245B. Adjustment of status of eligible entrants before December 31, 2011, to that of registered provisional immigrant.
 - "Sec. 245C. Adjustment of status of registered provisional immigrants.
 - "Sec. 245D. Adjustment of status for certain aliens who entered the United States as children.
 - "Sec. 245E. Additional requirements relating to registered provisional immigrants and others.".

8 SEC. 2105. CRIMINAL PENALTY.

- 9 (a) In General.—Chapter 69 of title 18, United
- 10 States Code, is amended by adding at the end the fol-
- 11 lowing:
- 12 "§ 1430. Improper use of information relating to reg-
- istered provisional immigrant applica-
- 14 tions
- 15 "Any person who knowingly uses, publishes, or per-
- 16 mits information described in section 245E(a) of the Im-
- 17 migration and Nationality Act to be examined in violation
- 18 of such section shall be fined not more than \$10,000.".
- 19 (b) Deposit of Fines.—All criminal penalties col-
- 20 lected under section 1430 of title 18, United States Code,
- 21 as added by subsection (a), shall be deposited into the

- 1 Comprehensive Immigration Reform Trust Fund estab-
- 2 lished under section 6(a)(1).
- 3 (c) Clerical Amendment.—The table of sections
- 4 in chapter 69 of title 18, United States Code, is amended
- 5 by adding at the end the following:
 - "1430. Improper use of information relating to registered provisional immigrant applications.".

6 SEC. 2106. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-

- 7 CANTS.
- 8 (a) Establishment.—The Secretary may establish,
- 9 within U.S. Citizenship and Immigration Services, a pro-
- 10 gram to award grants, on a competitive basis, to eligible
- 11 nonprofit organizations that will use the funding to assist
- 12 eligible applicants under section 245B, 245C, 245D, or
- 13 245F of the Immigration and Nationality Act or section
- 14 2211 of this Act by providing them with the services de-
- 15 scribed in subsection (c).
- 16 (b) Eligible Nonprofit Organization.—The
- 17 term "eligible nonprofit organization" means a nonprofit,
- 18 tax-exempt organization, including a community, faith-
- 19 based or other immigrant-serving organization, whose
- 20 staff has demonstrated qualifications, experience, and ex-
- 21 pertise in providing quality services to immigrants, refu-
- 22 gees, persons granted asylum, or persons applying for
- 23 such statuses.

1	(c) Use of Funds.—Grant funds awarded under
2	this section may be used for the design and implementa-
3	tion of programs that provide—
4	(1) information to the public regarding the eli-
5	gibility and benefits of registered provisional immi-
6	grant status authorized under section 245B of the
7	Immigration and Nationality Act and blue card sta-
8	tus authorized under section 2211, particularly to
9	individuals potentially eligible for such status;
10	(2) assistance, within the scope of authorized
11	practice of immigration law, to individuals submit-
12	ting applications for registered provisional immi-
13	grant status or blue card status, including—
14	(A) screening prospective applicants to as-
15	sess their eligibility for such status;
16	(B) completing applications and petitions,
17	including providing assistance in obtaining the
18	requisite documents and supporting evidence;
19	(C) applying for any waivers for which ap-
20	plicants and qualifying family members may be
21	eligible; and
22	(D) providing any other assistance that the
23	Secretary or grantees consider useful or nec-
24	essary to apply for registered provisional immi-
25	grant status or blue card status;

1	(3) assistance, within the scope of authorized
2	practice of immigration law, to individuals seeking to
3	adjust their status to that of an alien admitted for
4	permanent residence under section 245C or 245F of
5	the Immigration and Nationality Act; and
6	(4) assistance, within the scope of authorized
7	practice of immigration law, and instruction, to indi-
8	viduals—
9	(A) on the rights and responsibilities of
10	United States citizenship;
11	(B) in civics and civics-based English as a
12	second language; and
13	(C) in applying for United States citizen-
14	ship.
15	(d) Source of Grant Funds.—
16	(1) APPLICATION FEES.—The Secretary may
17	use up to \$50,000,000 from the Comprehensive Im-
18	migration Reform Trust Fund established under sec-
19	tion $6(a)(1)$ to carry out this section.
20	(2) Authorization of appropriations.—
21	(A) Amounts authorized.—In addition
22	to the amounts made available under paragraph
23	(1), there are authorized to be appropriated
24	such sums as may be necessary for each of the

1	fiscal years 2014 through 2018 to carry out
2	this section.
3	(B) AVAILABILITY.—Any amounts appro-
4	priated pursuant to subparagraph (A) shall re-
5	main available until expended.
6	SEC. 2107. CONFORMING AMENDMENTS TO THE SOCIAL SE-
7	CURITY ACT.
8	(a) Correction of Social Security Records.—
9	(1) In general.—Section 208(e)(1) of the So-
10	cial Security Act (42 U.S.C. 408(e)(1)) is amend-
11	ed—
12	(A) in subparagraph (B)(ii), by striking
13	"or" at the end;
14	(B) in subparagraph (C), by striking the
15	comma at the end and inserting a semicolon;
16	(C) by inserting after subparagraph (C)
17	the following:
18	"(D) who is granted status as a registered
19	provisional immigrant under section 245B or
20	245D of the Immigration and Nationality Act;
21	or
22	"(E) whose status is adjusted to that of
23	lawful permanent resident under section 245C
24	of the Immigration and Nationality Act,"; and

1	(D) in the undesignated matter at the end,
2	by inserting ", or in the case of an alien de-
3	scribed in subparagraph (D) or (E), if such
4	conduct is alleged to have occurred before the
5	date on which the alien submitted an applica-
6	tion under section 245B of such Act for classi-
7	fication as a registered provisional immigrant"
8	before the period at the end.
9	(2) Effective date.—The amendments made
10	by paragraph (1) shall take effect on the first day
11	of the tenth month that begins after the date of the
12	enactment of this Act.
13	(b) STATE DISCRETION REGARDING TERMINATION
14	OF PARENTAL RIGHTS.—
15	(1) In general.—A compelling reason for a
16	State not to file (or to join in the filing of) a petition
17	to terminate parental rights under section 475(5)(E)
18	of the Social Security Act (42 U.S.C. 675(5)(E))
19	shall include—
20	(A) the removal of the parent from the
21	United States, unless the parent is unfit or un-
22	willing to be a parent of the child; or
23	(B) the involvement of the parent in (in-
24	cluding detention pursuant to) an immigration

1	proceeding, unless the parent is unfit or unwill-
2	ing to be a parent of the child.
3	(2) Conditions.—Before a State may file to
4	terminate the parental rights under such section
5	475(5)(E), the State (or the county or other political
6	subdivision of the State, as applicable) shall make
7	reasonable efforts—
8	(A) to identify, locate, and contact (includ-
9	ing, if appropriate, through the diplomatic or
10	consular offices of the country to which the par-
11	ent was removed or in which a parent or rel-
12	ative resides)—
13	(i) any parent of the child who is in
14	immigration detention;
15	(ii) any parent of the child who has
16	been removed from the United States; and
17	(iii) if possible, any potential adult
18	relative of the child (as described in section
19	471(a)(29));
20	(B) to notify such parent or relative of the
21	intent of the State (or the county or other polit-
22	ical subdivision of the State, as applicable) to
23	file (or to join in the filing of) a petition re-
24	ferred to in paragraph (1); or

1	(C) to reunify the child with any such par-
2	ent or relative; and
3	(D) to provide and document appropriate
4	services to the parent or relative.
5	(3) Conforming Amendment.—Section
6	475(5)(E)(ii) of the Social Security Act (42 U.S.C.
7	675(5)(E)) is amended by inserting ", including the
8	reason set forth in section 2107(b)(1) of the Border
9	Security, Economic Opportunity, and Immigration
10	Modernization Act" after "child".
11	(c) Children Separated From Parents and
12	CAREGIVERS.—
13	(1) State plan for foster care and adop-
14	TION ASSISTANCE.—Section 471(a) of the Social Se-
15	curity Act (42 U.S.C. 671(a)) is amended—
16	(A) by amending paragraph (19) to read
17	as follows:
18	"(19) provides that the State shall give pref-
19	erence to an adult relative over a nonrelated care-
20	giver when determining a placement for a child if—
21	"(A) the relative caregiver meets all rel-
22	evant State child protection standards; and
23	"(B) the standards referred to in subpara-
24	graph (A) ensure that the immigration status
25	alone of a parent, legal guardian, or relative

1	shall not disqualify the parent, legal guardian,
2	or relative from being a placement for a child;";
3	and
4	(B) in paragraph (32), by striking "and"
5	at the end;
6	(C) in paragraph (33), by striking the pe-
7	riod at the end and inserting "; and"; and
8	(D) by adding at the end the following:
9	"(34) provides that the State shall—
10	"(A) ensure that the case manager for a
11	separated child is capable of communicating in
12	the native language of such child and of the
13	family of such child, or an interpreter who is so
14	capable is provided to communicate with such
15	child and the family of such child at no cost to
16	the child or to the family of such child;
17	"(B) coordinate with the Department of
18	Homeland Security to ensure that parents who
19	wish for their child to accompany them to their
20	country of origin are given adequate time and
21	assistance to obtain a passport and visa, and to
22	collect all relevant vital documents, such as
23	birth certificate, health, and educational records
24	and other information;

	225
1	"(C) coordinate with State agencies re-
2	garding alternate documentation requirements
3	for a criminal records check or a fingerprint-
4	based check for a caregiver that does not have
5	Federal or State-issued identification;
6	"(D) preserve, to the greatest extent prac-
7	ticable, the privacy and confidentiality of all in-
8	formation gathered in the course of admin-

ticable, the privacy and confidentiality of all information gathered in the course of administering the care, custody, and placement of, and follow up services provided to, a separated child, consistent with the best interest of such child, by not disclosing such information to other government agencies or persons (other than a parent, legal guardian, or relative caregiver or such child), except that the head of the State agency (or the county or other political subdivision of the State, as applicable) may disclose such information, after placing a written record of the disclosure in the file of the child—

"(i) to a consular official for the purpose of reunification of a child with a parent, legal guardian, or relative caregiver who has been removed or is involved in an immigration proceeding, unless the child has refused contact with, or the sharing of

1	personal or identifying information with,
2	the government of his or her country of or-
3	igin;
4	"(ii) when authorized to do so by the
5	child (if the child has attained 18 years of
6	age) if the disclosure is consistent with the
7	best interest of the child; or
8	"(iii) to a law enforcement agency if
9	the disclosure would prevent imminent and
10	serious harm to another individual; and
11	"(E) not less frequently than annually,
12	compile, update, and publish a list of entities in
13	the State that are qualified to provide legal rep-
14	resentation services for a separated child, in a
15	language such that a child can read and under-
16	stand.".
17	(2) Additional information to be in-
18	CLUDED IN CASE PLAN.—Section 475 of such Act
19	(42 U.S.C. 675) is amended—
20	(A) in paragraph (1), by adding at the end
21	the following:
22	"(H) In the case of a separated child with
23	respect to whom the State plan requires the
24	State to provide services under section
25	471(a)(34)—

1	"(i) the location of the parent or legal
2	guardian described in paragraph (9)(A)
3	from whom the child has been separated;
4	and
5	"(ii) a written record of each disclo-
6	sure to a government agency or person
7	(other than such a parent, legal guardian,
8	or relative) of information gathered in the
9	course of tracking the care, custody, and
10	placement of, and follow-up services pro-
11	vided to, the child."; and
12	(B) by adding at the end the following:
13	"(9) The term 'separated child' means an indi-
14	vidual who—
15	"(A) has a parent or legal guardian who
16	has been—
17	"(i) detained by a Federal, State, or
18	local law enforcement agency in the en-
19	forcement of an immigration law; or
20	"(ii) removed from the United States
21	as a result of a violation of such a law; and
22	"(B) is in foster care under the responsi-
23	bility of a State.".
24	(3) Effective date.—The amendments made
25	by this subsection shall take effect on the 1st day

1	of the 1st calendar quarter that begins after the 1-
2	year period that begins on the date of the enactment
3	of this Act.
4	(d) Preclusion of Social Security Credits for
5	PERIODS WITHOUT WORK AUTHORIZATION.—
6	(1) Insured Status.—Section 214 of the So-
7	cial Security Act (42 U.S.C. 414) is amended by
8	adding at the end the following new subsection:
9	"(d) Insured Status.—
10	"(1) In general.—Subject to paragraphs (2)
11	and (3), for purposes of subsections (a) and (b), no
12	quarter of coverage shall be credited for any cal-
13	endar year—
14	"(A) beginning after December 31, 2003,
15	and before January 1, 2014, with respect to an
16	individual who has been granted registered pro-
17	visional immigrant status pursuant to section
18	245B of the Immigration and Nationality Act;
19	or
20	"(B) beginning after December 31, 2003,
21	and before January 1, 2014, in which an indi-
22	vidual earned such quarter of coverage while
23	present under an expired nonimmigrant visa,
24	unless the Commissioner of Social Security deter-
25	mines, on the basis of information provided to the

Commissioner by the individual, that the individual
was authorized to be employed in the United States
during such quarter.
"(2) Exception.—Paragraph (1) shall not

- "(2) EXCEPTION.—Paragraph (1) shall not apply to an individual who was assigned a social security account number before January 1, 2004.
- "(3) ATTESTATION OF WORK AUTHORIZATION.—
 - "(A) IN GENERAL.—For purposes of paragraph (1), if an individual is unable to obtain or produce sufficient evidence or documentation that the individual was authorized to be employed in the United States during a quarter, the individual may submit an attestation to the Commissioner of Social Security that the individual was authorized to be employed in the United States during such quarter and that sufficient evidence or documentation of such authorization cannot be obtained by the individual.
 - "(B) Penalty.—Any individual who knowingly submits a false attestation described in subparagraph (A) shall be subject to the penalties under section 1041 of title 18, United States Code.".

1	(2) Benefit computation.—Section 215(e) of
2	the Social Security Act (42 U.S.C. 415(e)) is
3	amended—
4	(A) in paragraph (1), by striking "and" at
5	the end;
6	(B) in paragraph (2), by striking the pe-
7	riod at the end and inserting "; and"; and
8	(C) by adding at the end the following:
9	"(3) in computing the average indexed monthly
10	earnings of an individual, there shall not be counted
11	any wages or self-employment income for any year
12	for which no quarter of coverage may be credited to
13	such individual as a result of the application of sec-
14	tion 214(d).".
15	(3) Conforming Amendment.—Section
16	223(c)(1) of the Social Security Act (42 U.S.C.
17	423(c)(1)) is amended in the flush matter at the end
18	by inserting "the individual does not satisfy the cri-
19	terion specified in section 214(d) or" after "part of
20	any period if".
21	(4) Effective date.—The amendments made
22	by this subsection shall apply to benefit applications
23	filed on or after the date that is 180 days after the
24	date of the enactment of this Act based on the
25	wages or self-employment income of an individual

1	with respect to whom a primary insurance amount
2	has not been determined under title II of the Social
3	Security Act (42 U.S.C. 401 et seq.) before such
4	date.
5	SEC. 2108. GOVERNMENT CONTRACTING AND ACQUISITION
6	OF REAL PROPERTY INTEREST.
7	(a) Exemption From Government Contracting
8	AND HIRING RULES.—
9	(1) In general.—A determination by a Fed-
10	eral agency to use a procurement competition ex-
11	emption under section 253(c) of title 41, United
12	States Code, or to use the authority granted in para-
13	graph (2), for the purpose of implementing this title
14	and the amendments made by this title is not sub-
15	ject to challenge by protest to the Government Ac-
16	countability Office under sections 3551 and 3556 of
17	title 31, United States Code, or to the Court of Fed-
18	eral Claims, under section 1491 of title 28, United
19	States Code. An agency shall immediately advise the
20	Congress of the exercise of the authority granted
21	under this paragraph.
22	(2) Government contracting exemption.—
23	The competition requirement under section 253(a)
24	of title 41, United States Code, may be waived or
25	modified by a Federal agency for any procurement

- conducted to implement this title or the amendments made by this title if the senior procurement executive for the agency conducting the procurement—
 - (A) determines that the waiver or modification is necessary; and
 - (B) submits an explanation for such determination to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.
 - (3) Hiring Rules exemption.—Notwithstanding any other provision of law, the Secretary is authorized to make term, temporary limited, and part-time appointments of employees who will implement this title and the amendments made by this title without regard to the number of such employees, their ratio to permanent full-time employees, and the duration of their employment. Nothing in chapter 71 of title 5, United States Code, shall affect the authority of any Department management official to hire term, temporary limited or part-time employees under this paragraph.
- 23 (b) AUTHORITY TO WAIVE ANNUITY LIMITATIONS.— 24 Section 824(g)(2)(B) of the Foreign Service Act of 1980

1	(22 U.S.C. 4064(g)(2)(B)) is amended by striking "2009"
2	and inserting "2017".
3	(c) Authority To Acquire Leaseholds.—Not-

- 4 withstanding any other provision of law, the Secretary
- 5 may acquire a leasehold interest in real property, and may
- 6 provide in a lease entered into under this subsection for
- 7 the construction or modification of any facility on the
- 8 leased property, if the Secretary determines that the ac-
- 9 quisition of such interest, and such construction or modi-
- 10 fication, are necessary in order to facilitate the implemen-
- 11 tation of this title and the amendments made by this title.
- 12 SEC. 2109. LONG-TERM LEGAL RESIDENTS OF THE COM-
- 13 MONWEALTH OF THE NORTHERN MARIANA
- 14 ISLANDS.
- 15 Section (6)(e) of the Joint Resolution entitled "A
- 16 Joint Resolution to approve the 'Covenant to Establish a
- 17 Commonwealth of the Northern Mariana Islands in Polit-
- 18 ical Union with the United States of America', and for
- 19 other purposes", approved March 24, 1976 (48 U.S.C.
- 20 1806(e)), as added by section 702 of the Consolidated
- 21 Natural Resources Act of 2008 (Public Law 110–229; 122
- 22 Stat. 854), is amended by adding at the end the following:
- 23 "(6) Special provision regarding long-
- 24 TERM RESIDENTS OF THE COMMONWEALTH.—

1	"(A) CNMI-ONLY RESIDENT STATUS.—
2	Notwithstanding paragraph (1), an alien de-
3	scribed in subparagraph (B) may, upon the ap-
4	plication of the alien, be admitted as an immi-
5	grant to the Commonwealth subject to the fol-
6	lowing rules:
7	"(i) The alien shall be treated as an
8	immigrant lawfully admitted for permanent
9	residence in the Commonwealth only, in-
10	cluding permitting entry to and exit from
11	the Commonwealth, until the earlier of the
12	date on which—
13	"(I) the alien ceases to perma-
14	nently reside in the Commonwealth;
15	or
16	"(II) the alien's status is ad-
17	justed under this paragraph or section
18	245 of the Immigration and Nation-
19	ality Act (8 U.S.C. 1255) to that of
20	an alien lawfully admitted for perma-
21	nent residence in accordance with all
22	applicable eligibility requirements.
23	"(ii) The Secretary of Homeland Se-
24	curity shall establish a process for such
25	aliens to apply for CNMI-only permanent

1	resident status during the 90-day period
2	beginning on the first day of the sixth
3	month after the date of the enactment of
4	this paragraph.
5	"(iii) Nothing in this subparagraph
6	may be construed to provide any alien
7	granted status under this subparagraph
8	with public assistance to which the alien is
9	not otherwise entitled.
10	"(B) ALIENS DESCRIBED.—An alien is de-
11	scribed in this subparagraph if the alien—
12	"(i) is lawfully present in the Com-
13	monwealth under the immigration laws of
14	the United States;
15	"(ii) is otherwise admissible to the
16	United States under the Immigration and
17	Nationality Act (8 U.S.C. 1101 et seq.);
18	"(iii) resided continuously and law-
19	fully in the Commonwealth from November
20	28, 2009, through the date of the enact-
21	ment of this paragraph;
22	"(iv) is not a citizen of the Republic
23	of the Marshall Islands, the Federated
24	States of Micronesia, or the Republic of
25	Palau; and

1	"(v)(I) was born in the Northern
2	Mariana Islands between January 1, 1974
3	and January 9, 1978;
4	"(II) was, on May 8, 2008, and con-
5	tinues to be as of the date of the enact-
6	ment of this paragraph, a permanent resi-
7	dent (as defined in section 4303 of title 3
8	of the Northern Mariana Islands Common-
9	wealth Code, in effect on May 8, 2008);
10	"(III) is the spouse or child (as de-
11	fined in section 101(b)(1) of the Immigra-
12	tion and Nationality Act (8 U.S.C.
13	1101(b)(1))), of an alien described in sub-
14	clauses (I) or (II);
15	"(IV) was, on May 8, 2008, an imme-
16	diate relative (as defined in section 4303 of
17	title 3 of the Northern Mariana Islands
18	Commonwealth Code, in effect on May 8,
19	2008, of a United States citizen, notwith-
20	standing the age of the United States cit-
21	izen, and continues to be such an imme-
22	diate relative on the date of the application
23	described in subparagraph (A);
24	"(V) resided in the Northern Mariana
25	Islands as a guest worker under Common-

1	wealth immigration law for at least 5 years
2	before May 8, 2008 and is presently resi-
3	dent under CW-1 status; or
4	"(VI) is the spouse or child (as de-
5	fined in section 101(b)(1) of the Immigra-
6	tion and Nationality Act (8 U.S.C.
7	1101(b)(1))), of the alien guest worker de-
8	scribed in subclause (V) and is presently
9	resident under CW-2 status.
10	"(C) Adjustment for long term and
11	PERMANENT RESIDENTS.—Beginning on the
12	date that is 5 years after the date of the enact-
13	ment of the Border Security, Economic Oppor-
14	tunity, and Immigration Modernization Act, an
15	alien described in subparagraph (B) may apply
16	to receive an immigrant visa or to adjust his or
17	her status to that of an alien lawfully admitted
18	for permanent residence.".

19 SEC. 2110. RULEMAKING.

20 (a) IN GENERAL.—Not later than 1 year after the 21 date of the enactment of this Act, the Secretary, the Attor-22 ney General, and the Secretary of State separately shall 23 issue interim final regulations to implement this subtitle 24 and the amendments made by this subtitle, which shall

1	take effect immediately upon publication in the Federal
2	Register.
3	(b) Application Procedures; Processing Fees;
4	DOCUMENTATION.—The interim final regulations issued
5	under subsection (a) shall include—
6	(1) the procedures by which an alien, and the
7	dependent spouse and children of such alien may
8	apply for status under section 245B of the Immigra-
9	tion and Nationality Act, as added by section 2101
10	of this Act, as a registered provisional immigrant or
11	a registered provisional immigrant dependent, as ap-
12	plicable, including the evidence required to dem-
13	onstrate eligibility for such status or to be included
14	in each application for such status;
15	(2) the criteria to be used by the Secretary to
16	determine—
17	(A) the maximum processing fee payable
18	under sections $245B(c)(10)(B)$ and
19	245C(c)(5)(A) of such Act by a family, includ-
20	ing spouses and unmarried children younger
21	than 21 years of age; and
22	(B) which individuals will be exempt from
23	such fees;

1	(3) the documentation required to be submitted
2	by the applicant to demonstrate compliance with sec-
3	tion 245C(b)(3) of such Act; and

- (4) the procedures for a registered provisional immigrant to apply for adjustment of status under section 245C or 245D of such Act, including the evidence required to be submitted with such application to demonstrate the applicant's eligibility for such adjustment.
- 10 (c) EXEMPTION FROM NATIONAL ENVIRONMENTAL
 11 POLICY ACT.—Any decision by the Secretary concerning
 12 any rulemaking action, plan, or program described in this
 13 section shall not be considered to be a major Federal ac14 tion subject to review under the National Environmental

16 SEC. 2111. STATUTORY CONSTRUCTION.

Policy Act of 1969 (42 U.S.C. 4321 et seq.).

- Except as specifically provided, nothing in this sub-18 title, or any amendment made by this subtitle, may be con-
- 19 strued to create any substantive or procedural right or
- 20 benefit that is legally enforceable by any party against the
- 21 United States or its agencies or officers or any other per-
- 22 son.

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Subtitle B—Agricultural Worker

2	Program
3	SEC. 2201. SHORT TITLE.
4	This subtitle may be cited as the "Agricultural Work-
5	er Program Act of 2013".
6	SEC. 2202. DEFINITIONS.
7	In this subtitle:
8	(1) Blue card status.—The term "blue card
9	status" means the status of an alien who has been
10	lawfully admitted into the United States for tem-
11	porary residence under section 2211.
12	(2) AGRICULTURAL EMPLOYMENT.—The term
13	"agricultural employment" has the meaning given
14	such term in section 3 of the Migrant and Seasonal
15	Agricultural Worker Protection Act (29 U.S.C.
16	1802), without regard to whether the specific service
17	or activity is temporary or seasonal.
18	(3) CHILD.—The term "child" has the meaning
19	given the term in section 101(b)(1) of the Immigra-
20	tion and Nationality Act (8 U.S.C. 1101(b)(1)).
21	(4) Employer.—The term "employer" means
22	any person or entity, including any farm labor con-
23	tractor and any agricultural association, that em-

ploys workers in agricultural employment.

1	(5) QUALIFIED DESIGNATED ENTITY.—The
2	term "qualified designated entity" means—
3	(A) a qualified farm labor organization or
4	an association of employers designated by the
5	Secretary; or
6	(B) any other entity that the Secretary
7	designates as having substantial experience,
8	demonstrated competence, and a history of
9	long-term involvement in the preparation and
10	submission of application for adjustment of sta-
11	tus under title II of the Immigration and Na-
12	tionality Act (8 U.S.C. 1151 et seq.).
13	(6) Work day.—The term "work day" means
14	any day in which the individual is employed 5.75 or
15	more hours in agricultural employment.
16	CHAPTER 1—PROGRAM FOR EARNED STA-
17	TUS ADJUSTMENT OF AGRICULTURAL
18	WORKERS
19	Subchapter A—Blue Card Status
20	SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS.
21	(a) Requirements for Blue Card Status.—Not-
22	withstanding any other provision of law, the Secretary,
23	after conducting the national security and law enforce-
24	ment clearances required under section 245B(c)(4), may
25	grant blue card status to an alien who—

- 1 (1)(A) performed agricultural employment in 2 the United States for not fewer than 575 hours or 3 100 work days during the 2-year period ending on 4 December 31, 2012; or
 - (B) is the spouse or child of an alien described in subparagraph (A) and was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the alien is granted blue card status, with the exception of absences from the United States that are brief, casual, and innocent, whether or not such absences were authorized by the Secretary;
 - (2) submits a completed application before the end of the period set forth in subsection (b)(2); and
 - (3) is not ineligible under paragraph (3) or (4) of section 245B(b) of the Immigration and Nationality Act (other than a nonimmigrant alien admitted to the United States for agricultural employment described in section 101(a)(15)(H)(ii)(a) of such Act.

(b) Application.—

(1) IN GENERAL.—An alien who meets the eligibility requirements set forth in subsection (a)(1), may apply for blue card status and that alien's spouse or child may apply for blue card status as a

- dependent, by submitting a completed application form to the Secretary during the application period set forth in paragraph (2) in accordance with the final rule promulgated by the Secretary pursuant to subsection (e).
 - (2) Submission.—The Secretary shall provide that the alien shall be able to submit an application under paragraph (1)—
 - (A) if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or
 - (B) to a qualified entity if the applicant consents to the forwarding of the application to the Secretary.

(3) Application Period.—

(A) INITIAL PERIOD.—Except as provided in subparagraph (B), the Secretary may only accept applications for blue card status for a 1-year period from aliens in the United States beginning on the date on which the final rule is published in the Federal Register pursuant to subsection (f), except that qualified non-

1	immigrants who have participated in the H–2A
2	Program may apply from outside of the United
3	States.

(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for blue card status or for other good cause, the Secretary may extend the period for accepting applications for an additional 18 months.

(4) APPLICATION FORM.—

- (A) REQUIRED INFORMATION.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines necessary and appropriate.
- (B) Family application.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children, who are residing in the United States.
- (C) Interview.—The Secretary may interview applicants for blue card status to determine whether they meet the eligibility requirements set forth in subsection (a)(1).

1	(5) Aliens apprehended before or during
2	THE APPLICATION PERIOD.—If an alien, who is ap-
3	prehended during the period beginning on the date
4	of the enactment of this Act and ending on the ap-
5	plication period described in paragraph (3), appears
6	prima facie eligible for blue card status, the Sec-
7	retary—
8	(A) shall provide the alien with a reason-
9	able opportunity to file an application under
10	this section during such application period; and
11	(B) may not remove the individual until a
12	final administrative determination is made on
13	the application.
14	(6) Suspension of removal during appli-
15	CATION PERIOD.—
16	(A) PROTECTION FROM DETENTION OR
17	REMOVAL.—An alien granted blue card status
18	may not be detained by the Secretary or re-
19	moved from the United States unless—
20	(i) such alien is, or has become, ineli-
21	gible for blue card status; or
22	(ii) the alien's blue card status has
23	been revoked.
24	(B) ALIENS IN REMOVAL PROCEEDINGS.—
25	Notwithstanding any other provision of the Im-

1	migration and Nationality Act (8 U.S.C. 1101
2	et seq.)—
3	(i) if the Secretary determines that an
4	alien, during the period beginning on the
5	date of the enactment of this section and
6	ending on the last day of the application
7	period described in paragraph (2), is in re-
8	moval, deportation, or exclusion pro-
9	ceedings before the Executive Office for
10	Immigration Review and is prima facie eli-
11	gible for blue card status under this sec-
12	tion—
13	(I) the Secretary shall provide
14	the alien with the opportunity to file
15	an application for such status; and
16	(II) upon motion by the Sec-
17	retary and with the consent of the
18	alien or upon motion by the alien, the
19	Executive Office for Immigration Re-
20	view shall—
21	(aa) terminate such pro-
22	ceedings without prejudice to fu-
23	ture proceedings on any basis;
24	and

1	(bb) provide the alien a rea-
2	sonable opportunity to apply for
3	such status; and
4	(ii) if the Executive Office for Immi-
5	gration Review determines that an alien,
6	during the application period described in
7	paragraph (2), is in removal, deportation,
8	or exclusion proceedings before the Execu-
9	tive Office for Immigration Review and is
10	prima facie eligible for blue card status
11	under this section—
12	(I) the Executive Office of Immi-
13	gration Review shall notify the Sec-
14	retary of such determination; and
15	(II) if the Secretary does not dis-
16	pute the determination of prima facie
17	eligibility within 7 days after such no-
18	tification, the Executive Office for Im-
19	migration Review, upon consent of the
20	alien, shall—
21	(aa) terminate such pro-
22	ceedings without prejudice to fu-
23	ture proceedings on any basis;
24	and

1	(bb) permit the alien a rea-
2	sonable opportunity to apply for
3	such status.
4	(C) Treatment of certain aliens.—
5	(i) In general.—If an alien who
6	meets the eligibility requirements set forth
7	in subsection (a) is present in the United
8	States and has been ordered excluded, de-
9	ported, or removed, or ordered to depart
10	voluntarily from the United States under
11	any provision of this Act—
12	(I) notwithstanding such order or
13	section 241(a)(5) of the Immigration
14	and Nationality Act (8 U.S.C.
15	1231(a)(5)), the alien may apply for
16	blue card status under this section;
17	and
18	(II) if the alien is granted such
19	status, the alien shall file a motion to
20	reopen the exclusion, deportation, re-
21	moval, or voluntary departure order,
22	which motion shall be granted unless
23	1 or more of the grounds of ineligi-
24	bility is established by clear and con-
25	vincing evidence.

1	(ii) Limitations on motions to re-
2	OPEN.—The limitations on motions to re-
3	open set forth in section 240(c)(7) of the
4	Immigration and Nationality Act (8 U.S.C.
5	1229a(c)(7)) shall not apply to motions
6	filed under clause (i)(II).
7	(D) PERIOD PENDING ADJUDICATION OF
8	APPLICATION.—
9	(i) In general.—During the period
10	beginning on the date on which an alien
11	applies for blue card status under this sub-
12	section and the date on which the Sec-
13	retary makes a final decision regarding
14	such application, the alien—
15	(I) may receive advance parole to
16	reenter the United States if urgent
17	humanitarian circumstances compel
18	such travel;
19	(II) may not be detained by the
20	Secretary or removed from the United
21	States unless the Secretary makes a
22	prima facie determination that such
23	alien is, or has become, ineligible for
24	blue card status;

1	(III) shall not be considered un-
2	lawfully present for purposes of sec-
3	tion 212(a)(9)(B) of the Immigration
4	and Nationality Act (8 U.S.C.
5	1182(a)(9)(B); and
6	(IV) shall not be considered an
7	unauthorized alien (as defined in sec-
8	tion 274A(h)(3) of the Immigration
9	and Nationality Act (8 U.S.C.
10	1324a(h)(3))).
11	(ii) EVIDENCE OF APPLICATION FIL-
12	ING.—As soon as practicable after receiv-
13	ing each application for blue card status,
14	the Secretary shall provide the applicant
15	with a document acknowledging the receipt
16	of such application.
17	(iii) Continuing employment.—An
18	employer who knows an alien employee is
19	an applicant for blue card status or will
20	apply for such status once the application
21	period commences is not in violation of sec-
22	tion 274A(a)(2) of the Immigration and
23	Nationality Act (8 U.S.C. 1324a(a)(2)) if
24	the employer continues to employ the alien

1	pending the adjudication of the alien em-
2	ployee's application.
3	(iv) Effect of Departure.—Sec-
4	tion 101(g) of the Immigration and Na-
5	tionality Act (8 U.S.C. 1101(g)) shall not
6	apply to an alien granted—
7	(I) advance parole under clause
8	(i)(I) to reenter the United States; or
9	(II) blue card status.
10	(7) Security and law enforcement clear-
11	ANCES.—
12	(A) BIOMETRIC AND BIOGRAPHIC DATA.—
13	The Secretary may not grant blue card status
14	to an alien or an alien dependent spouse or
15	child under this section unless such alien sub-
16	mits biometric and biographic data in accord-
17	ance with procedures established by the Sec-
18	retary.
19	(B) ALTERNATIVE PROCEDURES.—The
20	Secretary shall provide an alternative procedure
21	for applicants who cannot provide the standard
22	biometric data required under subparagraph
23	(A) because of a physical impairment.
24	(C) CLEARANCES.—

1	(i) Data collection.—The Sec-
2	retary shall collect, from each alien apply-
3	ing for status under this section, biometric,
4	biographic, and other data that the Sec-
5	retary determines to be appropriate—
6	(I) to conduct national security
7	and law enforcement clearances; and
8	(II) to determine whether there
9	are any national security or law en-
10	forcement factors that would render
11	an alien ineligible for such status.
12	(ii) Prerequisite.—The required
13	clearances described in clause $(i)(I)$ shall
14	be completed before the alien may be
15	granted blue card status.
16	(8) DURATION OF STATUS.—After the date that
17	is 8 years after the date regulations are published
18	under this section, no alien may remain in blue card
19	status.
20	(9) Fees and penalties.—
21	(A) STANDARD PROCESSING FEE.—
22	(i) In general.—Aliens who are 16
23	years of age or older and are applying for
24	blue card status under paragraph (2), or
25	for an extension of such status, shall pay

1	a processing fee to the Department in an
2	amount determined by the Secretary.
3	(ii) Recovery of costs.—The proc-
4	essing fee authorized under clause (i) shall
5	be set at a level that is sufficient to recover
6	the full costs of processing the application,
7	including any costs incurred—
8	(I) to adjudicate the application;
9	(II) to take and process bio-
10	metrics;
11	(III) to perform national security
12	and criminal checks, including adju-
13	dication;
14	(IV) to prevent and investigate
15	fraud; and
16	(V) to administer the collection
17	of such fee.
18	(iii) Authority to limit fees.—
19	The Secretary, by regulation, may—
20	(I) limit the maximum processing
21	fee payable under this subparagraph
22	by a family, including spouses and un-
23	married children younger than 21
24	years of age; and

1	(II) exempt defined classes of in-
2	dividuals from the payment of the fee
3	authorized under clause (i).
4	(B) Deposit and use of processing
5	FEES.—Fees collected pursuant to subpara-
6	graph (A)(i)—
7	(i) shall be deposited into the Immi-
8	gration Examinations Fee Account pursu-
9	ant to section 286(m); and
10	(ii) shall remain available until ex-
11	pended pursuant to section 286(n).
12	(C) Penalty.—
13	(i) Payment.—In addition to the
14	processing fee required under subpara-
15	graph (A), aliens who are 21 years of age
16	or older and are applying for blue card sta-
17	tus under paragraph (2) shall pay a \$100
18	penalty to the Department.
19	(ii) Deposit.—Penalties collected
20	pursuant to clause (i) shall be deposited
21	into the Comprehensive Immigration Re-
22	form Trust Fund established under section
23	6(a)(1).
24	(10) Adjudication.—

1	(A) Failure to submit sufficient evi-
2	DENCE.—The Secretary shall deny an applica-
3	tion submitted by an alien who fails to sub-
4	mit—
5	(i) requested initial evidence, includ-
6	ing requested biometric data; or
7	(ii) any requested additional evidence
8	by the date required by the Secretary.
9	(B) AMENDED APPLICATION.—An alien
10	whose application for blue card status is denied
11	under subparagraph (A) may file an amended
12	application for such status to the Secretary if
13	the amended application—
14	(i) is filed within the application pe-
15	riod described in paragraph (3); and
16	(ii) contains all the required informa-
17	tion and fees that were missing from the
18	initial application.
19	(11) EVIDENCE OF BLUE CARD STATUS.—
20	(A) IN GENERAL.—The Secretary shall
21	issue documentary evidence of blue card status
22	to each alien whose application for such status
23	has been approved.

1	(B) Documentation features.—Docu-
2	mentary evidence provided under subparagraph
3	(A)—
4	(i) shall be machine-readable and tam-
5	per-resistant, and shall contain a digitized
6	photograph;
7	(ii) shall, during the alien's authorized
8	period of admission, and any extension of
9	such authorized admission, serve as a valid
10	travel and entry document for the purpose
11	of applying for admission to the United
12	States;
13	(iii) may be accepted during the pe-
14	riod of its validity by an employer as evi-
15	dence of employment authorization and
16	identity under section $274A(b)(1)(B)$ of
17	the Immigration and Nationality Act (8
18	U.S.C. $1324a(b)(1)(B)$; and
19	(iv) shall include such other features
20	and information as the Secretary may pre-
21	scribe.
22	(c) Terms and Conditions of Blue Card Sta-
23	TUS.—
24	(1) Conditions of blue card status.—

1	(A) Employment.—Notwithstanding any
2	other provision of law, including section
3	241(a)(7) of the Immigration and Nationality
4	Act (8 U.S.C. 1231(a)(7)), an alien with blue
5	card status shall be authorized to be employed
6	in the United States while in such status.
7	(B) Travel outside the united
8	STATES.—An alien with blue card status may
9	travel outside of the United States and may be
10	admitted, if otherwise admissible, upon return-
11	ing to the United States without having to ob-
12	tain a visa if—
13	(i) the alien is in possession of—
14	(I) valid, unexpired documentary
15	evidence of blue card status that com-
16	plies with subsection (b)(11); or
17	(II) a travel document that has
18	been approved by the Secretary and
19	was issued to the alien after the
20	alien's original documentary evidence
21	was lost, stolen, or destroyed;
22	(ii) the alien's absence from the
23	United States did not exceed 180 days, un-
24	less the alien's failure to timely return was

1	due to extenuating circumstances beyond
2	the alien's control; and
3	(iii) the alien establishes that the alien
4	is not inadmissible under subparagraph
5	(A)(i), (A)(iii), (B), or (C) of section
6	212(a)(3) of the Immigration and Nation-
7	ality Act (8 U.S.C. 1182(a)(3)).
8	(C) Admission.—An alien granted blue
9	card status shall be considered to have been ad-
10	mitted in such status as of the date on which
11	the alien's application was filed.
12	(D) CLARIFICATION OF STATUS.—An alien
13	granted blue card status—
14	(i) is lawfully admitted to the United
15	States; and
16	(ii) may not be classified as a non-
17	immigrant or as an alien who has been
18	lawfully admitted for permanent residence.
19	(2) Revocation.—
20	(A) IN GENERAL.—The Secretary may re-
21	voke blue card status at any time after pro-
22	viding appropriate notice to the alien, and after
23	the exhaustion or waiver of all applicable ad-
24	ministrative review procedures under section
25	245E(c) of the Immigration and Nationality

1	Act, as added by section 2104(a) of this Act, if
2	the alien—
3	(i) no longer meets the eligibility re-
4	quirements for blue card status;
5	(ii) knowingly used documentation
6	issued under this section for an unlawful
7	or fraudulent purpose; or
8	(iii) was absent from the United
9	States for—
10	(I) any single period longer than
11	180 days in violation of the require-
12	ment under paragraph (1)(B)(ii); or
13	(II) for more than 180 days in
14	the aggregate during any calendar
15	year, unless the alien's failure to time-
16	ly return was due to extenuating cir-
17	cumstances beyond the alien's control.
18	(B) Additional evidence.—
19	(i) In General.—In determining
20	whether to revoke an alien's status under
21	subparagraph (A), the Secretary may re-
22	quire the alien—
23	(I) to submit additional evidence;
24	or
25	(II) to appear for an interview.

	200
1	(ii) Effect of noncompliance.—
2	The status of an alien who fails to comply
3	with any requirement imposed by the Sec-
4	retary under clause (i) shall be revoked un-
5	less the alien demonstrates to the Sec-
6	retary's satisfaction that such failure was
7	reasonably excusable.
8	(C) Invalidation of documentation.—
9	If an alien's blue card status is revoked under
10	subparagraph (A), any documentation issued by
11	the Secretary to such alien under subsection
12	(b)(11) shall automatically be rendered invalid
13	for any purpose except for departure from the
14	United States.
15	(3) Ineligibility for public benefits.—An
16	alien who has been granted blue card status is not
17	eligible for any Federal means-tested public benefit
18	(as such term is defined and implemented in section
19	403 of the Personal Responsibility and Work Oppor-
20	tunity Reconciliation Act of 1996 (8 U.S.C. 1613)).
21	(4) Treatment of blue card status.—A
22	noncitizen granted blue card status shall be consid-
23	ered lawfully present in the United States for all
24	purposes while such noncitizen remains in such sta-

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tus, except that the noncitizen—

1	(A) is not entitled to the premium assist-
2	ance tax credit authorized under section 36B of
3	the Internal Revenue Code of 1986 for his or
4	her coverage;
5	(B) shall be subject to the rules applicable
6	to individuals who are not lawfully present set
7	forth in subsection (e) of such section;
8	(C) shall be subject to the rules applicable
9	to individuals who are not lawfully present set
10	forth in section 1402(e) of the Patient Protec-
11	tion and Affordable Care Act (42 U.S.C.
12	18071(e)); and
13	(D) shall be subject to the rules applicable
14	to individuals not lawfully present set forth in
15	section 5000A(d)(3) of the Internal Revenue
16	Code of 1986.
17	(5) Adjustment to registered provisional
18	IMMIGRANT STATUS.—The Secretary may adjust the
19	status of an alien who has been granted blue card
20	status to the status of a registered provisional immi-
21	grant under section 245B of the Immigration and
22	Nationality Act if the Secretary determines that the
23	alien is unable to fulfill the agricultural service re-
24	quirement set forth in section 245F(a)(1) of such

Act.

1	(d) Record of Employment.—
2	(1) In general.—Each employer of an alien
3	granted blue card status shall annually provide—
4	(A) a written record of employment to the
5	alien; and
6	(B) a copy of such record to the Secretary
7	of Agriculture.
8	(2) CIVIL PENALTIES.—
9	(A) IN GENERAL.—If the Secretary finds,
10	after notice and an opportunity for a hearing,
11	that an employer of an alien granted blue card
12	status has knowingly failed to provide the
13	record of employment required under paragraph
14	(1) or has provided a false statement of mate-
15	rial fact in such a record, the employer shall be
16	subject to a civil penalty in an amount not to
17	exceed \$500 per violation.
18	(B) LIMITATION.—The penalty under sub-
19	paragraph (A) for failure to provide employ-
20	ment records shall not apply unless the alien
21	has provided the employer with evidence of em-
22	ployment authorization provided under sub-
23	section (e).
24	(C) Deposit of civil penalties.—Civil
25	penalties collected under this paragraph shall be

deposited in the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1).

(3) TERMINATION OF OBLIGATION.—The obligation under paragraph (1) shall terminate on the date that is 8 years after the date of the enactment of this Act.

(4) Employer protections.—

(A) Use of employment records.— Copies of employment records or other evidence of employment provided by an alien or by an alien's employer in support of an alien's application for blue card status may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8) U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unlawful employment of that alien regardless of the adjudication of such application or reconsideration by the Secretary of such alien's prima facie eligibility determination. Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for blue card status shall not be subject to civil

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1	and criminal liability pursuant to such section
2	274A for employing such unauthorized aliens.
3	(B) LIMIT ON APPLICABILITY.—The pro-
4	tections for employers and aliens under sub-
5	paragraph (A) shall not apply if the aliens or
6	employers submit employment records that are
7	deemed to be fraudulent.
8	(e) Rulemaking.—Not later than 1 year after the
9	date of the enactment of this Act, the Secretary, in con-
10	sultation with the Secretary of Agriculture, shall issue
11	final regulations to implement this chapter.
12	SEC. 2212. ADJUSTMENT TO PERMANENT RESIDENT STA-
13	TUS.
13 14	TUS. (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
14	(a) In General.—Chapter 5 of title II (8 U.S.C.
14 15	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E,
141516	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following:
14 15 16 17	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following: "SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATES.
14 15 16 17 18	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following: "SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATUS FOR AGRICULTURAL WORKERS.
14 15 16 17 18	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following: "SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATESTAND TUS FOR AGRICULTURAL WORKERS. "(a) In General.—Except as provided in subsection
14 15 16 17 18 19 20	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following: "SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATUS FOR AGRICULTURAL WORKERS. "(a) In General.—Except as provided in subsection (b), and not earlier than 5 years after the date of the en-
14 15 16 17 18 19 20 21	(a) In General.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following: "SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATEMENT TO FOR AGRICULTURAL WORKERS. "(a) In General.—Except as provided in subsection (b), and not earlier than 5 years after the date of the enactment of the Border Security, Economic Opportunity,

1	if the Secretary determines that the following require-
2	ments are satisfied:
3	"(1) Qualifying employment.—Except as
4	provided in paragraph (3), the alien—
5	"(A) during the 8-year period beginning on
6	the date of the enactment of the Border Secu-
7	rity, Economic Opportunity, and Immigration
8	Modernization Act, performed not less than 100
9	work days of agricultural employment during
10	each of 5 years; or
11	"(B) during the 5-year period beginning on
12	such date of enactment, performed not less
13	than 150 work days of agricultural employment
14	during each of 3 years.
15	"(2) EVIDENCE.—An alien may demonstrate
16	compliance with the requirement under paragraph
17	(1) by submitting—
18	"(A) the record of employment described
19	in section 2211(d) of the Border Security, Eco-
20	nomic Opportunity, and Immigration Mod-
21	ernization Act;
22	"(B) documentation that may be submitted
23	under subsection (e)(4); or
24	"(C) any other documentation designated
25	by the Secretary for such purpose.

1	"(3) Extraordinary circumstances.—
2	"(A) IN GENERAL.—In determining wheth-
3	er an alien has met the requirement under
4	paragraph (1), the Secretary may credit the
5	alien with not more than 12 additional months
6	of agricultural employment in the United States
7	to meet such requirement if the alien was un-
8	able to work in agricultural employment due
9	to—
10	"(i) pregnancy, disabling injury, or
11	disease that the alien can establish through
12	medical records;
13	"(ii) illness, disease, or other special
14	needs of a child that the alien can establish
15	through medical records;
16	"(iii) severe weather conditions that
17	prevented the alien from engaging in agri-
18	cultural employment for a significant pe-
19	riod of time; or
20	"(iv) termination from agricultura
21	employment, if the Secretary determines
22	that—
23	"(I) the termination was without
24	just cause; and

1	"(II) the alien was unable to find
2	alternative agricultural employment
3	after a reasonable job search.
4	"(B) EFFECT OF DETERMINATION.—A de-
5	termination under subparagraph (A)(iv), with
6	respect to an alien, shall not be conclusive,
7	binding, or admissible in a separate or subse-
8	quent judicial or administrative action or pro-
9	ceeding between the alien and a current or
10	prior employer of the alien or any other party.
11	"(4) Application period.—The alien applies
12	for adjustment of status before the alien's blue card
13	status expires.
14	"(5) Fine.—The alien pays a fine of \$400 to
15	the Secretary, which shall be deposited into the
16	Comprehensive Immigration Reform Trust Fund es-
17	tablished under section $6(a)(1)$ of the Border Secu-
18	rity, Economic Opportunity, and Immigration Mod-
19	ernization Act.
20	"(b) Grounds for Denial of Adjustment of
21	Status.—
22	"(1) IN GENERAL.—The Secretary may not ad-
23	just the status of an alien granted blue card status
24	if the alien—

1	"(A) is no longer eligible for blue card sta-
2	tus; or
3	"(B) failed to perform the qualifying em-
4	ployment requirement under subsection (a)(1),
5	considering any amount credited by the Sec-
6	retary under subsection (a)(3).
7	"(2) Maintenance of Waivers of Inadmis-
8	SIBILITY.—The grounds of inadmissibility set forth
9	in section 212(a) that were previously waived for the
10	alien or made inapplicable shall not apply for pur-
11	poses of the alien's adjustment of status under this
12	section.
13	"(3) Pending Revocation Proceedings.—If
14	the Secretary has notified the applicant that the
15	Secretary intends to revoke the applicant's blue card
16	status, the Secretary may not approve an application
17	for adjustment of status under this section unless
18	the Secretary makes a final determination not to re-
19	voke the applicant's status.
20	"(4) Payment of Taxes.—
21	"(A) IN GENERAL.—An applicant may not
22	file an application for adjustment of status
23	under this section unless the applicant has sat-
24	isfied any applicable Federal tax liability.

1	"(B) Definition of applicable fed-
2	ERAL TAX LIABILITY.—In this paragraph, the
3	term 'applicable federal tax liability' means all
4	Federal income taxes assessed in accordance
5	with section 6203 of the Internal Revenue Code
6	of 1986 since the date on which the applicant
7	was authorized to work in the United States in
8	blue card status.
9	"(C) Compliance.—The applicant may
10	demonstrate compliance with subparagraph (A)
11	by submitting such documentation as the Sec-
12	retary, in consultation with the Secretary of the
13	Treasury, may require by regulation.
14	"(c) Spouses and Children.—Notwithstanding
15	any other provision of law, the Secretary shall grant per-
16	manent resident status to the spouse or child of an alien
17	whose status was adjusted under subsection (a) if—
18	"(1) the spouse or child (including any indi-
19	vidual who was a child on the date such alien was
20	granted blue card status) applies for such status;
21	"(2) the principal alien includes the spouse and
22	children in an application for adjustment of status
23	to that of a lawful permanent resident; and
24	"(3) the spouse or child is not ineligible for
25	such status under section 245B.

1	"(d) Numerical Limitations Do Not Apply.—
2	The numerical limitations under sections 201 and 202
3	shall not apply to the adjustment of aliens to lawful per-
4	manent resident status under this section.
5	"(e) Submission of Applications.—
6	"(1) Interview.—The Secretary may interview
7	applicants for adjustment of status under this sec-
8	tion to determine whether they meet the eligibility
9	requirements set forth in this section.
10	"(2) Fees.—
11	"(A) In general.—Applicants for adjust-
12	ment of status under this section shall pay a
13	processing fee to the Secretary in an amount
14	that will ensure the recovery of the full costs of
15	adjudicating such applications, including—
16	"(i) the cost of taking and processing
17	biometrics;
18	"(ii) expenses relating to prevention
19	and investigation of fraud; and
20	"(iii) costs relating to the administra-
21	tion of the fees collected.
22	"(B) AUTHORITY TO LIMIT FEES.—The
23	Secretary, by regulation—
24	"(i) may limit the maximum proc-
25	essing fee payable under this paragraph by

1	a family, including spouses and unmarried
2	children younger than 21 years of age; and
3	"(ii) may exempt individuals described
4	in section 245B(c)(10) and other defined
5	classes of individuals from the payment of
6	the fee under subparagraph (A).
7	"(3) DISPOSITION OF FEES.—All fees collected
8	under paragraph (2)(A)—
9	"(A) shall be deposited into the Immigra-
10	tion Examinations Fee Account pursuant to
11	section 286(m); and
12	"(B) shall remain available until expended
13	pursuant to section 286(n).
14	"(4) Documentation of work history.—
15	"(A) Burden of proof.—An alien apply-
16	ing for blue card status under section 2211 of
17	the Border Security, Economic Opportunity,
18	and Immigration Modernization Act or for ad-
19	justment of status under subsection (a) shall
20	provide evidence that the alien has worked the
21	requisite number of hours or days required
22	under subsection (a)(1) of such section 2211 or
23	subsection (a)(3) of this section, as applicable.
24	"(B) Timely production of records.—
25	If an employer or farm labor contractor employ-

ing such an alien has kept proper and adequate
records respecting such employment, the alien's
burden of proof under subparagraph (A) may
be met by securing timely production of those
records under regulations to be promulgated by
the Secretary.

"(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work referred to in subparagraph (A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

14 "(f) Penalties for False Statements in Appli-15 cations.—

"(1) Criminal Penalty.—Any person who—

"(A) files an application for blue card status under section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act or an adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to

1	contain any false, fictitious, or fraudulent state-
2	ment or entry; or
3	"(B) creates or supplies a false writing or
4	document for use in making such an applica-
5	tion,
6	shall be fined in accordance with title 18, United
7	States Code, imprisoned not more than 5 years, or
8	both.
9	"(2) Inadmissibility.—An alien who is con-
10	victed of a crime under paragraph (1) shall be
11	deemed inadmissible to the United States on the
12	ground described in section 212(a)(6)(C)(i).
13	"(3) Deposit.—Fines collected under para-
14	graph (1) shall be deposited into the Comprehensive
15	Immigration Reform Trust Fund established under
16	section $6(a)(1)$ of the Border Security, Economic
17	Opportunity, and Immigration Modernization Act.
18	"(g) Eligibility for Legal Services.—Section
19	504(a)(11) of the Departments of Commerce, Justice, and
20	State, the Judiciary, and Related Agencies Appropriations
21	Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may
22	not be construed to prevent a recipient of funds under the
23	Legal Services Corporation Act (42 U.S.C. 2996 et seq.)
24	from providing legal assistance directly related to an appli-
25	cation for blue card status under section 2211 of the Bor-

- 1 der Security, Economic Opportunity, and Immigration
- 2 Modernization Act, to an individual who has been granted
- 3 blue card status, or for an application for an adjustment
- 4 of status under this section.
- 5 "(h) Administrative and Judicial Review.—
- 6 Aliens applying for blue card status under section 2211
- 7 of the Border Security, Economic Opportunity, and Immi-
- 8 gration Modernization Act or adjustment to permanent
- 9 resident status under this section shall be entitled to the
- 10 rights and subject to the conditions applicable to other
- 11 classes of aliens under sections 242(h) and 245E.
- 12 "(i) Applicability of Other Provisions.—The
- 13 provisions set forth in section 245E which are applicable
- 14 to aliens described in section 245B, 245C, and 245D shall
- 15 apply to aliens applying for blue card status under section
- 16 2211 of the Border Security, Economic Opportunity, and
- 17 Immigration Modernization Act or adjustment to perma-
- 18 nent resident status under this section.
- 19 "(j) Limitation on Blue Card Status.—An alien
- 20 granted blue card status under section 2211 of the Border
- 21 Security, Economic Opportunity, and Immigration Mod-
- 22 ernization Act may only adjust status to an alien lawfully
- 23 admitted for permanent residence under this section, sec-
- 24 tion 245C of this Act, or section 2302 of the Border Secu-

- 1 rity, Economic Opportunity, and Immigration Moderniza-
- 2 tion Act.
- 3 "(k) Definitions.—In this section:
- 4 "(1) Blue card status.—The term 'blue card
- 5 status' means the status of an alien who has been
- 6 lawfully admitted into the United States for tem-
- 7 porary residence under section 2211 of the Border
- 8 Security, Economic Opportunity, and Immigration
- 9 Modernization Act.
- 10 "(2) AGRICULTURAL EMPLOYMENT.—The term
- 11 'agricultural employment' has the meaning given
- such term in section 3 of the Migrant and Seasonal
- 13 Agricultural Worker Protection Act (29 U.S.C.
- 14 1802), without regard to whether the specific service
- or activity is temporary or seasonal.
- 16 "(3) Employer.—The term 'employer' means
- any person or entity, including any farm labor con-
- 18 tractor and any agricultural association, that em-
- 19 ploys workers in agricultural employment.
- 20 "(4) Work day.—The term 'work day' means
- any day in which the individual is employed 5.75 or
- more hours in agricultural employment.".
- 23 (b) Conforming Amendment.—Section 201(b)(1)
- 24 (8 U.S.C. 1151(b)(1)), as amended by section 2103(c), is
- 25 further amended by adding at the end the following:

1	"(G) Aliens granted lawful permanent resi-
2	dent status under section 245F.".
3	(c) Clerical Amendment.—The table of contents,
4	as amended by section 2104(e), is further amended by in-
5	serting after the item relating to section 245E the fol-
6	lowing:
	"Sec. 245F. Adjustment to permanent resident status for agricultural workers.".
7	SEC. 2213. USE OF INFORMATION.
8	Beginning not later than the first day of the applica-
9	tion period described in section 2211(b)(3), the Secretary,
10	in cooperation with qualified designated entities, shall
11	broadly disseminate information respecting the benefits
12	that aliens may receive under this subchapter and the re-
13	quirements that an alien is required to meet to receive
14	such benefits.
15	SEC. 2214. REPORTS ON BLUE CARDS.
16	Not later than September 30, 2013, and annually
17	thereafter for the next 8 years, the Secretary shall submit
18	a report to Congress that identifies, for the previous fiscal
19	year—
20	(1) the number of aliens who applied for blue
21	card status;
22	(2) the number of aliens who were granted blue
23	card status;

1	(3) the number of aliens who applied for an ad-
2	justment of status pursuant to section 245F(a) of
3	the Immigration and Nationality Act, as added by
4	section 2212; and
5	(4) the number of aliens who received an ad-
6	justment of status pursuant such section 245F(a).
7	SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.
8	There are authorized to be appropriated to the Sec-
9	retary such sums as may be necessary to implement this
10	subchapter, including any sums needed for costs associ-
11	ated with the initiation of such implementation, for fiscal
12	years 2013 and 2014.
13	Subchapter B—Correction of Social Security
14	Records
15	SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.
16	(a) In General.—Section 208(e)(1) of the Social
17	Security Act (42 U.S.C. 408(e)(1)) is amended—
18	(1) in subparagraph (B)(ii), by striking "or" at
19	the end;
20	(2) in subparagraph (C), by inserting "or" at
21	the end;
22	$(9) 1 \cdot \dots \cdot (9) \cdot \dots \cdot 1 \cdot (9) \cdot (1 \cdot $
	(3) by inserting after subparagraph (C) the fol-

1	"(D) who is granted blue card status
2	under the Agricultural Worker Program Act of
3	2013,"; and
4	(4) by striking "1990." and inserting "1990, or
5	in the case of an alien described in subparagraph
6	(D), if such conduct is alleged to have occurred be-
7	fore the date on which the alien was granted blue
8	card status under section 2211(a) of the Agricul-
9	tural Worker Program Act of 2013.".
10	(b) Effective Date.—The amendments made by
11	subsection (a) shall take effect on the first day of the sev-
12	enth month that begins after the date of the enactment
13	of this Act.
14	CHAPTER 2—NONIMMIGRANT
1 =	AGRICULTURAL VISA PROGRAM
15	110,1110 0 11 0 11 11 11 11 11 11 11 11 11 1
15 16	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON-
16	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON-
16 17	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON- IMMIGRANT AGRICULTURAL WORKERS.
16 17 18	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON- IMMIGRANT AGRICULTURAL WORKERS. Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-
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16 17 18 19 20 21	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON- IMMIGRANT AGRICULTURAL WORKERS. Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following: "(W) an alien having a residence in a foreign country who is coming to the United
16 17 18 19 20 21 22	SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON- IMMIGRANT AGRICULTURAL WORKERS. Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following: "(W) an alien having a residence in a foreign country who is coming to the United States for a temporary period—

1	benefits, and working conditions of such
2	full-time employment in an agricultural oc-
3	cupation with a designated agricultural
4	employer for a specified period of time;
5	and
6	"(II) who meets the requirements
7	under section 218A for a nonimmigrant
8	visa described in this clause; or
9	"(iv)(I) to perform services or labor in
10	agricultural employment and who has an
11	offer of full-time employment in an agricul-
12	tural occupation from a designated agricul-
13	tural employer for such employment and is
14	not described in clause (i); and
15	"(II) who meets the requirements
16	under section 218A for a nonimmigrant
17	visa described in this clause.".
18	SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICUL-
19	TURAL WORKER PROGRAM.
20	(a) In General.—Chapter 2 of title II (8 U.S.C.
21	1181 et seq.) is amended by inserting after section 218
22	the following:

1	"SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PRO-
2	GRAM.
3	"(a) Definitions.—In this section and in clauses
4	(iii) and (iv) of section 101(a)(15)(W):
5	"(1) AGRICULTURAL EMPLOYMENT.—The term
6	'agricultural employment' has the meaning given
7	such term in section 3 of the Migrant and Seasonal
8	Agricultural Worker Protection Act (29 U.S.C.
9	1802), without regard to whether the specific service
10	or activity is temporary or seasonal.
11	"(2) AT-WILL AGRICULTURAL WORKER.—The
12	term 'at-will agricultural worker' means an alien
13	present in the United States pursuant to section
14	101(a)(15)(W)(iv).
15	"(3) Blue card.—The term 'blue card' means
16	an employment authorization and travel document
17	issued to an alien granted blue card status under
18	section 2211(a) of the Agricultural Worker Program
19	Act of 2013.
20	"(4) CONTRACT AGRICULTURAL WORKER.—The
21	term 'contract agricultural worker' means an alien
22	present in the United States pursuant to section
23	101(a)(15)(W)(iii).
24	"(5) Designated Agricultural Em-
25	PLOYER.—The term 'designated agricultural em-
26	ployer' means an employer who is registered with

1	the Secretary of Agriculture pursuant to subsection
2	(e)(1).
3	"(6) Electronic Job Registry.—The term
4	'Electronic Job Registry' means the Electronic Job
5	Registry of a State workforce agency (or similar suc-
6	cessor registry).
7	"(7) Employer.—Except as otherwise pro-
8	vided, the term 'employer' means any person or enti-
9	ty, including any farm labor contractor and any ag-
10	ricultural association, that employs workers in agri-
11	cultural employment.
12	"(8) Nonimmigrant agricultural work-
13	ER.—The term 'nonimmigrant agricultural worker'
14	mean a nonimmigrant described in clause (iii) or (iv)
15	of section $101(a)(15)(W)$.
16	"(9) Program.—The term 'Program' means
17	the Nonimmigrant Agricultural Worker Program es-
18	tablished under subsection (b).
19	"(10) Secretary.—Except as otherwise spe-
20	cifically provided, the term 'Secretary' means the
21	Secretary of Agriculture.
22	"(11) United States Worker.—The term
23	'United States worker' means an individual who—
24	"(A) is a national of the United States; or
25	"(B) is an alien who—

1	"(i) is lawfully admitted for perma-
2	nent residence;
3	"(ii) is admitted as a refugee under
4	section 207;
5	"(iii) is granted asylum under section
6	208;
7	"(iv) holds a blue card; or
8	"(v) is an immigrant otherwise au-
9	thorized by this Act or by the Secretary of
10	Homeland Security to be employed in the
11	United States.
12	"(b) Requirements.—
13	"(1) Employer.—An employer may not employ
14	an alien for agricultural employment under the Pro-
15	gram unless such employer is a designated agricul-
16	tural employer and complies with the terms of this
17	section.
18	"(2) Worker.—An alien may not be employed
19	for agricultural employment under the Program un-
20	less such alien is a nonimmigrant agricultural work-
21	er and complies with the terms of this section.
22	"(c) Numerical Limitation.—
23	"(1) First 5 years of program.—
24	"(A) In general.—Subject to paragraph
25	(2), the worldwide level of visas for non-

1	immigrant agricultural workers for the fiscal
2	year during which the first visa is issued to a
3	nonimmigrant agricultural worker and for each
4	of the following 4 fiscal years shall be equal
5	to—
6	"(i) 112,333; and
7	"(ii) the numerical adjustment made
8	by the Secretary for such fiscal year in ac-
9	cordance with paragraph (2).
10	"(B) QUARTERLY ALLOCATION.—The an-
11	nual allocation of visas described in subpara-
12	graph (A) shall be evenly allocated between the
13	4 quarters of the fiscal year unless the Sec-
14	retary determines that an alternative allocation
15	would better accommodate the seasonal demand
16	for visas. Any unused visas in a quarter shall
17	be added to the allocation for the subsequent
18	quarter of the same fiscal year.
19	"(C) Effect of 2nd or subsequent
20	DESIGNATED AGRICULTURAL EMPLOYER.—A
21	nonimmigrant agricultural worker who has a
22	valid visa issued under this section that counted
23	against the allocation described in subpara-

graph (A) shall not be recounted against the al-

1	location if the worker is petitioned for by a sub-
2	sequent designated agricultural employer.
3	"(2) Annual adjustments for first 5
4	YEARS OF PROGRAM.—
5	"(A) IN GENERAL.—The Secretary, in con-
6	sultation with the Secretary of Labor, and after
7	reviewing relevant evidence submitted by agri-
8	cultural producers and organizations rep-
9	resenting agricultural workers, may increase or
10	decrease, as appropriate, the worldwide level of
11	visas under paragraph (1) for each of the 5 fis-
12	cal years referred to in paragraph (1) after con-
13	sidering appropriate factors, including—
14	"(i) a demonstrated shortage of agri-
15	cultural workers;
16	"(ii) the level of unemployment and
17	underemployment of agricultural workers
18	during the preceding fiscal year;
19	"(iii) the number of applications for
20	blue card status;
21	"(iv) the number of blue card visa ap-
22	plications approved;
23	"(v) the number of nonimmigrant ag-
24	ricultural workers sought by employers
25	during the preceding fiscal year;

1	"(vi) the estimated number of United
2	States workers, including blue card work-
3	ers, who worked in agriculture during the
4	preceding fiscal year;
5	"(vii) the number of nonimmigrant
6	agricultural workers issued a visa in the
7	most recent fiscal year who remain in the
8	United States in compliance with the terms
9	of such visa;
10	"(viii) the number of United States
11	workers who accepted jobs offered by em-
12	ployers using the Electronic Job Registry
13	during the preceding fiscal year;
14	"(ix) any growth or contraction of the
15	United States agricultural industry that
16	has increased or decreased the demand for
17	agricultural workers; and
18	"(x) any changes in the real wages
19	paid to agricultural workers in the United
20	States as an indication of a shortage or
21	surplus of agricultural labor.
22	"(B) Notification; implementation.—
23	The Secretary shall notify the Secretary of
24	Homeland Security of any change to the world-
25	wide level of visas for nonimmigrant agricul-

1	tural workers. The Secretary of Homeland Se-
2	curity shall implement such changes.
3	"(C) EMERGENCY PROCEDURES.—The
4	Secretary shall establish, by regulation, proce-
5	dures for immediately adjusting an annual allo-
6	cation under paragraph (1) for labor shortages,
7	as determined by the Secretary. The Secretary
8	shall make a decision on a petition for an ad-
9	justment of status not later than 30 days after
10	receiving such petition.
11	"(3) Sixth and subsequent years of pro-
12	GRAM.—The Secretary, in consultation with the Sec-
13	retary of Labor, shall establish the worldwide level
14	of visas for nonimmigrant agricultural workers for
15	each fiscal year following the fiscal years referred to
16	in paragraph (1) after considering appropriate fac-
17	tors, including—
18	"(A) a demonstrated shortage of agricul-
19	tural workers;
20	"(B) the level of unemployment and under-
21	employment of agricultural workers during the
22	preceding fiscal year;
23	"(C) the number of applications for blue
24	card status;

1	"(D) the number of blue card visa applica-
2	tions approved;
3	"(E) the number of nonimmigrant agricul-
4	tural workers sought by employers during the
5	preceding fiscal year;
6	"(F) the estimated number of United
7	States workers, including blue card workers,
8	who worked in agriculture during the preceding
9	fiscal year;
10	"(G) the number of nonimmigrant agricul-
11	tural workers issued a visa in the most recent
12	fiscal year who remain in the United States in
13	compliance with the terms of such visa;
14	"(H) the number of United States workers
15	who accepted jobs offered by employers using
16	the Electronic Job Registry during the pre-
17	ceding fiscal year;
18	"(I) any growth or contraction of the
19	United States agricultural industry that has in-
20	creased or decreased the demand for agricul-
21	tural workers; and
22	"(J) any changes in the real wages paid to
23	agricultural workers in the United States as an
24	indication of a shortage or surplus of agricul-
25	tural labor.

1	"(4) Emergency procedures.—The Sec-
2	retary shall establish, by regulation, procedures for
3	immediately adjusting an annual allocation under
4	paragraph (3) for labor shortages, as determined by
5	the Secretary. The Secretary shall make a decision
6	on a petition for an adjustment of status not later
7	than 30 days after receiving such petition.
8	"(d) Requirements for Nonimmigrant Agricul-
9	TURAL WORKERS.—
10	"(1) Eligibility for nonimmigrant agri-
11	CULTURAL WORKER STATUS.—
12	"(A) IN GENERAL.—An alien is not eligible
13	to be admitted to the United States as a non-
14	immigrant agricultural worker if the alien—
15	"(i) violated a material term or condi-
16	tion of a previous admission as a non-
17	immigrant agricultural worker during the
18	most recent 3-year period (other than a
19	contract agricultural worker who volun-
20	tarily abandons his or her employment be-
21	fore the end of the contract period or
22	whose employment is terminated by the
23	employer for cause);
24	"(ii) has not obtained successful clear-
25	ance of any security and criminal back-

1	ground checks required by the Secretary of
2	Homeland Security or any other examina-
3	tion required under this Act; or
4	"(iii)(I) departed from the United
5	States while subject to an order of exclu-
6	sion, deportation, or removal, or pursuant
7	to an order of voluntary departure; and
8	"(II)(aa) is outside of the United
9	States; or
10	"(bb) has reentered the United States
11	illegally after December 31, 2012, without
12	receiving consent to the alien's reapplica-
13	tion for admission under section 212(a)(9).
14	"(B) WAIVER.—The Secretary of Home-
15	land Security may waive the application of sub-
16	paragraph (A)(iii) on behalf of an alien if the
17	alien—
18	"(i) is the spouse or child of a United
19	States citizen or lawful permanent resi-
20	dent;
21	"(ii) is the parent of a child who is a
22	United States citizen or lawful permanent
23	resident;

1	"(iii) meets the requirements set forth
2	in clause (ii) or (iii) of section
3	245D(b)(1)(A); or
4	"(iv)(I) meets the requirements set
5	forth in section 245D(b)(1)(A)(ii);
6	"(II) is 16 years or older on the date
7	on which the alien applies for non-
8	immigrant agricultural status; and
9	"(III) was physically present in the
10	United States for an aggregate period of
11	not less than 3 years during the 6-year pe-
12	riod immediately preceding the date of the
13	enactment of this section.
14	"(2) TERM OF STAY FOR NONIMMIGRANT AGRI-
15	CULTURAL WORKERS.—
16	"(A) In General.—
17	"(i) Initial admission.—A non-
18	immigrant agricultural worker may be ad-
19	mitted into the United States in such sta-
20	tus for an initial period of 3 years.
21	"(ii) Renewal.—A nonimmigrant ag-
22	ricultural worker may renew such worker's
23	period of admission in the United States
24	for 1 additional 3-year period.

1	"(B) Break in presence.—A non-
2	immigrant agricultural worker who has been
3	admitted to the United States for 2 consecutive
4	periods under subparagraph (A) is ineligible to
5	renew the alien's nonimmigrant agricultural
6	worker status until such alien—
7	"(i) returns to a residence outside the
8	United States for a period of not less than
9	3 months; and
10	"(ii) seeks to reenter the United
11	States under the terms of the Program as
12	a nonimmigrant agricultural worker.
13	"(3) Loss of Status.—
14	"(A) IN GENERAL.—An alien admitted as
15	a nonimmigrant agricultural worker shall be in-
16	eligible for such status and shall be required to
17	depart the United States if such alien—
18	"(i) after the completion of his or her
19	contract with a designated agricultural em-
20	ployer, is not employed in agricultural em-
21	ployment by a designated agricultural em-
22	ployer; or
23	"(ii) is an at-will agricultural worker
24	and is not continuously employed by a des-
25	ionated agricultural employer in agricul-

1	tural employment as an at-will agricultural
2	worker.
3	"(B) Exception.—Subject to subpara-
4	graph (C), a nonimmigrant agricultural worker
5	has not violated subparagraph (A) if the non-
6	immigrant agricultural worker is not employed
7	in agricultural employment for a period not to
8	exceed 60 days.
9	"(C) Waiver.—Notwithstanding subpara-
10	graph (B), the Secretary of Homeland Security
11	may waive the application of clause (i) or (ii) of
12	subparagraph (A) for a nonimmigrant agricul-
13	tural worker who was not employed in agricul-
14	tural employment for a period of more than 60
15	days if such period of unemployment was due
16	to—
17	"(i) the injury of such worker; or
18	"(ii) a natural disaster declared by
19	the Secretary.
20	"(D) Tolling of employment require-
21	MENT.—A nonimmigrant agricultural worker
22	may leave the United States for up to 60 days
23	in any fiscal year while in such status. During
24	the period in which the worker is outside of the

1	United States, the 60-day limit specified in sub-
2	paragraph (B) shall be tolled.
3	"(4) Portability of status.—
4	"(A) Contract agricultural work-
5	ERS.—
6	"(i) In general.—Except as pro-
7	vided in clause (ii), an alien who entered
8	the United States as a contract agricul-
9	tural worker may—
10	"(I) seek employment as a non-
11	immigrant agricultural worker with a
12	designated agricultural employer other
13	than the designated agricultural em-
14	ployer with whom the employee had a
15	contract described in section
16	101(a)(15)(W)(iii)(I); and
17	"(II) accept employment with
18	such new employer after the date the
19	contract agricultural worker completes
20	such contract.
21	"(ii) Voluntary abandonment;
22	TERMINATION FOR CAUSE.—A contract ag-
23	ricultural worker who voluntarily abandons
24	his or her employment before the end of

1	the contract period or whose employment
2	is terminated for cause by the employer—
3	"(I) may not accept subsequent
4	employment with another designated
5	agricultural employer without first de-
6	parting the United States and reen-
7	tering pursuant to a new offer of em-
8	ployment; and
9	"(II) is not entitled to the 75
10	percent payment guarantee described
11	in subsection (e)(4)(B).
12	"(iii) TERMINATION BY MUTUAL
13	AGREEMENT.—The termination of an em-
14	ployment contract by mutual agreement of
15	the designated agricultural employer and
16	the contract agricultural worker shall not
17	be considered voluntary abandonment for
18	purposes of clause (ii).
19	"(B) AT-WILL AGRICULTURAL WORK-
20	ERS.—An alien who entered the United States
21	as an at-will agricultural worker may seek em-
22	ployment as an at-will agricultural worker with
23	any other designated agricultural employer re-
24	ferred to in section $101(a)(15)(W)(iv)(I)$.

1	"(5) Prohibition on Geographic Limita-
2	TION.—A nonimmigrant visa issued to a non-
3	immigrant agricultural worker—
4	"(A) shall not limit the geographical area
5	within which such worker may be employed;
6	"(B) shall not limit the type of agricultural
7	employment such worker may perform; and
8	"(C) shall restrict such worker to employ-
9	ment with designated agricultural employers.
10	"(6) Treatment of spouses and chil-
11	DREN.—A spouse or child of a nonimmigrant agri-
12	cultural worker—
13	"(A) shall not be entitled to a visa or any
14	immigration status by virtue of the relationship
15	of such spouse or child to such worker; and
16	"(B) may be provided status as a non-
17	immigrant agricultural worker if the spouse or
18	child is independently qualified for such status.
19	"(e) Employer Requirements.—
20	"(1) Designated agricultural employer
21	STATUS.—
22	"(A) REGISTRATION REQUIREMENT.—
23	Each employer seeking to employ nonimmigrant
24	agricultural workers shall register for des-
25	ignated agricultural employer status by submit-

1	ting to the Secretary, through the Farm Service
2	Agency in the geographic area of the employer
3	or electronically to the Secretary, a registration
4	that includes—
5	"(i) the employer's employer identi-
6	fication number; and
7	"(ii) a registration fee, in an amount
8	determined by the Secretary, which shall
9	be used for the costs of administering the
10	program.
11	"(B) Criteria.—The Secretary shall
12	grant designated agricultural employer status to
13	an employer who submits a registration for
14	such status that includes—
15	"(i) documentation that the employer
16	is engaged in agriculture;
17	"(ii) the estimated number of non-
18	immigrant agricultural workers the em-
19	ployer will need each year;
20	"(iii) the anticipated periods during
21	which the employer will need such workers;
22	and
23	"(iv) documentation establishing need
24	for a specified agricultural occupation or
25	occupations.

1	"(C) Designation.—
2	"(i) REGISTRATION NUMBER.—The
3	Secretary shall assign each employer that
4	meets the criteria established pursuant to
5	subparagraph (B) with a designated agri-
6	cultural employer registration number.
7	"(ii) Term of designation.—Each
8	employer granted designated agricultural
9	employer status under this paragraph shall
10	retain such status for a term of 3 years.
11	At the end of such 3-year term, the em-
12	ployer may renew the registration for an-
13	other 3-year term if the employer meets
14	the requirements set forth in subpara-
15	graphs (A) and (B).
16	"(D) Assistance.—In carrying out the
17	functions described in this subsection, the Sec-
18	retary may work through the Farm Service
19	Agency, or any other agency in the Department
20	of Agriculture—
21	"(i) to assist agricultural employers
22	with the registration process under this
23	paragraph by providing such employers
24	with—

1	"(I) technical assistance and ex-
2	pertise;
3	"(II) internet access for submit-
4	ting such applications; and
5	"(III) a nonelectronic means for
6	submitting such registrations; and
7	"(ii) to provide resources about the
8	Program, including best practices and
9	compliance related assistance and re-
10	sources or training to assist in retention of
11	such workers to agricultural employers.
12	"(E) Deposit of registration fee.—
13	Fees collected pursuant to subparagraph
14	(A)(ii)—
15	"(i) shall be deposited into the Immi-
16	gration Examinations Fee Account pursu-
17	ant to section 286(m); and
18	"(ii) shall remain available until ex-
19	pended pursuant to section 286(n).
20	"(2) Nonimmigrant agricultural worker
21	PETITION PROCESS.—
22	"(A) IN GENERAL.—Not later than 45
23	days before the date on which nonimmigrant
24	agricultural workers are needed, a designated
25	agricultural employer seeking to employ such

1	workers shall submit a petition to the Secretary
2	of Homeland Security that includes the employ-
3	er's designated agricultural employer registra-
4	tion number.
5	"(B) Attestation.—An petition sub-
6	mitted under subparagraph (A) shall include an
7	attestation of the following:
8	"(i) The number of named or
9	unnamed nonimmigrant agricultural work-
10	ers the designated agricultural employer is
11	seeking to employ during the applicable pe-
12	riod of employment.
13	"(ii) The total number of contract ag-
14	ricultural workers and of at-will agricul-
15	tural workers the employer will require for
16	each occupational category.
17	"(iii) The anticipated period, includ-
18	ing expected beginning and ending dates,
19	during which such employees will be need-
20	ed.
21	"(iv) Evidence of contracts or written
22	disclosures of employment terms and con-
23	ditions in accordance with the Migrant and
24	Seasonal Agricultural Worker Protection
25	Act (29 U.S.C. 1801 et seq.), which have

1	been disclosed or provided to the non-
2	immigrant agricultural workers, or a sam-
3	ple of such contract or disclosure for
4	unnamed workers.
5	"(v) The information submitted to the
6	State workforce agency pursuant to para-
7	graph(3)(A)(i).
8	"(vi) The record of United States
9	workers described in paragraph (3)(A)(iii)
10	on the date of the request.
11	"(vii) Evidence of offers of employ-
12	ment made to United States workers as re-
13	quired under paragraph (3)(B).
14	"(viii) The employer will comply with
15	the additional program requirements for
16	designated agricultural employers de-
17	scribed in paragraph (4).
18	"(C) Employment authorization when
19	CHANGING EMPLOYERS.—Nonimmigrant agri-
20	cultural workers in the United States who are
21	identified in a petition submitted pursuant to
22	subparagraph (A) and are in lawful status may
23	commence employment with their designated
24	agricultural employer after such employer has

submitted such petition to the Secretary of
 Homeland Security.

"(D) REVIEW.—The Secretary of Homeland Security shall review each petition submitted by designated agricultural employers under this paragraph for completeness or obviinaccuracies. Unless the Secretary of Homeland Security determines that the petition is incomplete or obviously inaccurate, the Secretary shall accept the petition. The Secretary shall establish a procedure for the processing of petitions filed under this subsection. Not later than 7 working days after the date of the filing, the Secretary, by electronic or other means assuring expedited delivery, shall submit a copy of notice of approval or denial of the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate, as appropriate, if the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

"(3) Employment of united states work-

24 ERS.—

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25 "(A) RECRUITMENT.—

1	"(i) Filing a job opportunity
2	WITH LOCAL OFFICE OF STATE WORK-
3	FORCE AGENCY.—Not later than 60 days
4	before the date on which the employer de-
5	sires to employ a nonimmigrant agricul-
6	tural worker, the employer shall submit the
7	job opportunity for such worker to the
8	local office of the State workforce agency
9	where the job site is located and authorize
10	the posting of the job opportunity on the
11	appropriate Department of Labor Elec-
12	tronic Job Registry for a period of 45
13	days.
14	"(ii) Construction.—Nothing in
15	clause (i) may be construed to cause a
16	posting referred to in clause (i) to be treat-
17	ed as an interstate job order under section
18	653.500 of title 20, Code of Federal Regu-
19	lations (or similar successor regulation).
20	"(iii) Record of united states
21	WORKERS.—An employer shall keep a
22	record of all eligible, able, willing, and
23	qualified United States workers who apply
24	for agricultural employment with the em-

ployer for the agricultural employment for

1	which the nonimmigrant agricultural non-
2	immigrant workers are sought.
3	"(B) REQUIREMENT TO HIRE.—
4	"(i) United states workers.—An
5	employer may not seek a nonimmigrant ag-
6	ricultural worker for agricultural employ-
7	ment unless the employer offers such em-
8	ployment to any equally or better qualified
9	United States worker who will be available
10	at the time and place of need and who ap-
11	plies for such employment during the 45-
12	day recruitment period referred to in sub-
13	paragraph (A)(i).
14	"(ii) Exception.—Notwithstanding
15	clause (i), the employer may offer the job
16	to a nonimmigrant agricultural worker in-
17	stead of an alien in blue card status if—
18	"(I) such worker was previously
19	employed by the employer as an H-
20	2A worker;
21	"(II) such worker worked for the
22	employer for 3 years during the most
23	recent 4-year period; and

1	"(III) the employer pays such
2	worker the adverse effect wage rate
3	calculated under subsection (f)(5)(B).
4	"(4) Additional program requirements
5	FOR DESIGNATED AGRICULTURAL EMPLOYERS.—
6	Each designated agricultural employer shall comply
7	with the following requirements:
8	"(A) NO DISPLACEMENT OF UNITED
9	STATES WORKERS.—
10	"(i) In General.—The employer
11	shall not displace a United States worker
12	employed by the employer, other than for
13	good cause, during the period of employ-
14	ment of the nonimmigrant agricultural
15	worker and for a period of 30 days pre-
16	ceding such period in the occupation and
17	at the location of employment for which
18	the employer seeks to employ non-
19	immigrant agricultural workers.
20	"(ii) Labor dispute.—The employer
21	shall not employ a nonimmigrant agricul-
22	tural worker for a specific job for which
23	the employer is requesting a nonimmigrant
24	agricultural worker because the former oc-

1	cupant of the job is on strike or being
2	locked out in the course of a labor dispute.
3	"(B) Guarantee of employment for
4	CONTRACT AGRICULTURAL WORKERS.—
5	"(i) Offer to contract worker.—
6	The employer shall guarantee to offer con-
7	tract agricultural workers employment for
8	the hourly equivalent of at least 75 percent
9	of the work days of the total period of em-
10	ployment, beginning with the first work
11	day after the arrival of the worker at the
12	place of employment and ending on the ex-
13	piration date specified in the job offer. In
14	this clause, the term 'hourly equivalent'
15	means the number of hours in the work
16	days as stated in the job offer and shall ex-
17	clude the worker's Sabbath and Federal
18	holidays. If the employer affords the con-
19	tract agricultural worker less employment
20	than the number of hours required under
21	this subparagraph, the employer shall pay
22	such worker the amount the worker would
23	have earned had the worker worked the
24	guaranteed number of hours.

which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(iii) Contract impossibility.—If, before the expiration of the period of employment specified in the job offer, the services of a contract agricultural worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in clause (i) is fulfilled, the employer—

1	"(I) may terminate the worker's
2	employment;
3	"(II) shall fulfill the employment
4	guarantee described in clause (i) for
5	the work days that have elapsed from
6	the first work day after the arrival of
7	the worker to the termination of em-
8	ployment;
9	"(III) shall make efforts to
10	transfer the worker to other com-
11	parable employment acceptable to the
12	worker; and
13	"(IV) if such a transfer does not
14	take place, shall provide the return
15	transportation required under sub-
16	paragraph (J).
17	"(C) Workers' compensation.—
18	"(i) Requirement to provide.—If
19	a job referred to in paragraph (3) is not
20	covered by the State workers' compensa-
21	tion law, the employer shall provide, at no
22	cost to the nonimmigrant agricultural
23	worker, insurance covering injury and dis-
24	ease arising out of, and in the course of,
25	such job.

1	"(ii) Benefits.—The insurance re-
2	quired to be provided under clause (i) shall
3	provide benefits at least equal to those pro-
4	vided under and pursuant to the State
5	workers' compensation law for comparable
6	employment.
7	"(D) Prohibition for use for non-
8	AGRICULTURAL SERVICES.—The employer may
9	not employ a nonimmigrant agricultural worker
10	for employment other than agricultural employ-
11	ment.
12	"(E) Wages.—The employer shall pay not
13	less than the wage required under subsection
14	(f).
15	"(F) DEDUCTION OF WAGES.—The em-
16	ployer shall make only deductions from a non-
17	immigrant agricultural worker's wages that are
18	authorized by law and are reasonable and cus-
19	tomary in the occupation and area of employ-
20	ment of such worker.
21	"(G) REQUIREMENT TO PROVIDE HOUSING
22	OR A HOUSING ALLOWANCE.—
23	"(i) In general.—Except as pro-
24	vided in clauses (iv) and (v), a designated
25	agricultural employer shall offer to provide

1	a nonimmigrant agricultural worker with
2	housing at no cost in accordance with
3	clause (ii) or (iii).
4	"(ii) Housing.—An employer may
5	provide housing to a nonimmigrant agricul-
6	tural worker that meets—
7	"(I) applicable Federal standards
8	for temporary labor camps; or
9	"(II) applicable local standards
10	(or, in the absence of applicable local
11	standards, State standards) for rental
12	or public accommodation housing or
13	other substantially similar class of
14	habitation.
15	"(iii) Housing payments.—
16	"(I) Public Housing.—If the
17	employer arranges public housing for
18	nonimmigrant agricultural workers
19	through a State, county, or local gov-
20	ernment program and such public
21	housing units normally require pay-
22	ments from tenants, such payments
23	shall be made by the employer directly
24	to the landlord.

1	"(II) Deposits.—Deposits for
2	bedding or other similar incidentals
3	related to housing shall not be col-
4	lected from workers by employers who
5	provide housing for such workers.
6	"(III) Damages.—The employer
7	may require any worker who is re-
8	sponsible for damage to housing that
9	did not result from normal wear and
10	tear related to habitation to reimburse
11	the employer for the reasonable cost
12	of repairing such damage.
13	"(iv) Housing allowance alter-
14	NATIVE.—
15	``(I) In general.—The employer
16	may provide a reasonable housing al-
17	lowance instead of providing housing
18	under clause (i). Upon the request of
19	a worker seeking assistance in locat-
20	ing housing, the employer shall make
21	a good faith effort to assist the work-
22	er in identifying and locating housing
23	in the area of intended employment.
24	An employer who offers a housing al-
25	lowance to a worker or assists a work-

in locating housing, which the worker occupies, shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricul-tural Worker Protection Act (29) U.S.C. 1823) solely by virtue of pro-viding such housing allowance. No housing allowance may be used for housing that is owned or controlled by the employer.

"(II) CERTIFICATION REQUIREMENT.—Contract agricultural workers
may only be provided a housing allowance if the Governor of the State in
which the place of employment is located certifies to the Secretary that
there is adequate housing available in
the area of intended employment for
migrant farm workers and contract
agricultural workers who are seeking
temporary housing while employed in
agricultural work. Such certification
shall expire after 3 years unless renewed by the Governor of the State.

1	"(III) Amount of allow-
2	ANCE.—
3	"(aa) Nonmetropolitan
4	COUNTIES.—If the place of em-
5	ployment of the workers provided
6	an allowance under this clause is
7	a nonmetropolitan county, the
8	amount of the housing allowance
9	under this clause shall be equal
10	to the average fair market rental
11	for existing housing in nonmetro-
12	politan counties in the State in
13	which the place of employment is
14	located, as established by the
15	Secretary of Housing and Urban
16	Development pursuant to section
17	8(c) of the United States Hous-
18	ing Act of 1937 (42 U.S.C.
19	1437f(c)), based on a 2-bedroom
20	dwelling unit and an assumption
21	of 2 persons per bedroom.
22	"(bb) Metropolitan
23	COUNTIES.—If the place of em-
24	ployment of the workers provided
25	an allowance under this clause is

1	a metropolitan county, the
2	amount of the housing allowance
3	under this clause shall be equal
4	to the average fair market rental
5	for existing housing in metropoli-
6	tan counties in the State in
7	which the place of employment is
8	located, as established by the
9	Secretary of Housing and Urban
10	Development pursuant to section
11	8(c) of the United States Hous-
12	ing Act of 1937 (42 U.S.C.
13	1437f(c)), based on a 2-bedroom
14	dwelling unit and an assumption
15	of 2 persons per bedroom.
16	"(v) Exception for commuting
17	WORKERS.—Nothing in this subparagraph
18	may be construed to require an employer
19	to provide housing or a housing allowance
20	to workers who reside outside of the
21	United States if their place of residence is
22	within normal commuting distance and the
23	job site is within 50 miles of an inter-
24	national land border of the United States.

1	"(H) Worksite transportation for
2	CONTRACT WORKERS.—During the period a
3	designated agricultural employer employs a con-
4	tract agricultural worker, such employer shall,
5	at the employer's option, provide or reimburse
6	the contract agricultural worker for the cost of
7	daily transportation from the contract worker's
8	living quarters to the contract agricultural
9	worker's place of employment.
10	"(I) Reimbursement of transpor-
11	TATION TO THE PLACE OF EMPLOYMENT.—
12	"(i) In general.—A nonimmigrant
13	agricultural worker shall be reimbursed by
14	the first employer for the cost of the work-
15	er's transportation and subsistence from
16	the place from which the worker came
17	from to the place of first employment.
18	"(ii) Limitation.—The amount of re-
19	imbursement provided under clause (i) to a
20	worker shall not exceed the lesser of—
21	"(I) the actual cost to the worker
22	of the transportation and subsistence
23	involved; or
24	"(II) the most economical and
25	reasonable common carrier transpor-

1	tation charges and subsistence costs
2	for the distance involved.
3	"(J) Reimbursement of transpor-
4	TATION FROM PLACE OF EMPLOYMENT.—
5	"(i) In general.—A contract agri-
6	cultural worker who completes at least 27
7	months under his or her contract with the
8	same designated agricultural employer
9	shall be reimbursed by that employer for
10	the cost of the worker's transportation and
11	subsistence from the place of employment
12	to the place from which the worker came
13	from abroad to work for the employer.
14	"(ii) Limitation.—The amount of re-
15	imbursement required under clause (i)
16	shall not exceed the lesser of—
17	"(I) the actual cost to the worker
18	of the transportation and subsistence
19	involved; or
20	"(II) the most economical and
21	reasonable common carrier transpor-
22	tation charges and subsistence costs
23	for the distance involved.
24	"(f) Wages.—
25	"(1) Wage rate requirement.—

"(A) IN GENERAL.—A nonimmigrant agricultural worker employed by a designated agricultural employer shall be paid not less than the wage rate for such employment set forth in paragraph (3).

"(B) Workers paid on a piece rate or other incentive method and requires 1 or more minimum productivity standards as a condition of job retention, such standards shall be specified in the job offer and be no more than those which have been normally required (at the time of the employee's first application for designated employer status) by other employers for the activity in the geographic area of the job, unless the Secretary approves a higher standard.

"(2) Job categories.—

"(A) IN GENERAL.—For purposes of paragraph (1), each nonimmigrant agricultural worker employed by such employer shall be assigned to 1 of the following standard occupational classifications, as defined by the Bureau of Labor Statistics:

1	"(i) First-Line Supervisors of Farm-
2	ing, Fishing, and Forestry Workers (45–
3	1011).
4	"(ii) Animal Breeders (45–2021).
5	"(iii) Graders and Sorters, Agricul-
6	tural Products (45–2041).
7	"(iv) Agricultural equipment operator
8	(45-2091).
9	"(v) Farmworkers and Laborers,
10	Crop, Nursery, and Greenhouse (45–
11	2092).
12	"(vi) Farmworkers, Farm, Ranch and
13	Aquacultural Animals (45–2093).
14	"(B) Determination of Classifica-
15	TION.—A nonimmigrant agricultural worker is
16	employed in a standard occupational classifica-
17	tion described in clause (i), (ii), (iii), (iv), (v),
18	or (vi) of subparagraph (A) if the worker per-
19	forms activities associated with that occupa-
20	tional classification, as specified on the employ-
21	er's petition, for at least 75 percent of the time
22	in a semiannual employment period.
23	"(3) Determination of wage rate.—
24	"(A) Calendar years 2014 through
25	2016.—The wage rate under this subparagraph

1	for calendar years 2014 through 2016 shall be
2	the higher of—
3	"(i) the applicable Federal, State, or
4	local minimum wage; or
5	"(ii)(I) for the category described in
6	paragraph (2)(A)(iii)—
7	"(aa) \$9.37 for calendar year
8	2014;
9	"(bb) \$9.60 for calendar year
10	2015; and
11	"(cc) \$9.84 for calendar year
12	2016;
13	"(II) for the category described in
14	paragraph (2)(A)(iv)—
15	"(aa) \$11.30 for calendar year
16	2014;
17	"(bb) \$11.58 for calendar year
18	2015; and
19	"(ce) \$11.87 for calendar year
20	2016;
21	"(III) for the category described in
22	paragraph $(2)(A)(v)$ —
23	"(aa) \$9.17 for calendar year
24	2014;

1	"(bb) \$9.40 for calendar year
2	2015; and
3	"(cc) \$9.64 for calendar year
4	2016; and
5	"(IV) for the category described in
6	paragraph (2)(A)(vi)—
7	"(aa) \$10.82 for calendar year
8	2014;
9	"(bb) \$11.09 for calendar year
10	2015; and
11	"(cc) \$11.37 for calendar year
12	2016.
13	"(B) Subsequent Years.—The Secretary
14	shall increase the hourly wage rates set forth in
15	clauses (i) through (iv) of subparagraph (A),
16	for each calendar year after the calendar years
17	described in subparagraph (A) by an amount
18	equal to—
19	"(i) 1.5 percent, if the percentage in-
20	crease in the Employment Cost Index for
21	wages and salaries during the previous cal-
22	endar year, as calculated by the Bureau of
23	Labor Statistics, is less than 1.5 percent;
24	"(ii) the percentage increase in such
25	Employment Cost Index, if such percent-

1	age increase is between 1.5 percent and
2	2.5 percent, inclusive; or
3	"(iii) 2.5 percent, if such percentage
4	increase is greater than 2.5 percent.
5	"(C) AGRICULTURAL SUPERVISORS AND
6	ANIMAL BREEDERS.—Not later than September
7	1, 2015, and annually thereafter, the Secretary,
8	in consultation with the Secretary of Labor,
9	shall establish the required wage for the next
10	calendar year for each of the job categories set
11	out in clauses (i) and (ii) of paragraph (2)(A).
12	"(D) Survey by bureau of labor sta-
13	TISTICS.—Not later than April 15, 2015, the
14	Bureau of Labor Statistics shall consult with
15	the Secretary to expand the Occupational Em-
16	ployment Statistics Survey to survey agricul-
17	tural producers and contractors and produce
18	improved wage data by State and the job cat-
19	egories set out in clauses (i) through (vi) of
20	subparagraph (A).
21	"(4) Consideration.—In determining the
22	wage rate under paragraph (3)(C), the Secretary
23	may consider appropriate factors, including—
24	"(A) whether the employment of additional
25	alien workers at the required wage will ad-

1	versely affect the wages and working conditions
2	of workers in the United States similarly em-
3	ployed;
4	"(B) whether the employment in the
5	United States of an alien admitted under sec-
6	tion 101(a)(15)(H)(ii)(a) or unauthorized aliens
7	in the agricultural workforce has depressed
8	wages of United States workers engaged in ag-
9	ricultural employment below the levels that
10	would otherwise have prevailed if such aliens
11	had not been employed in the United States;
12	"(C) whether wages of agricultural workers
13	are sufficient to support such workers and their
14	families at a level above the poverty thresholds
15	determined by the Bureau of Census;
16	"(D) the wages paid workers in the United
17	States who are not employed in agricultural em-
18	ployment but who are employed in comparable
19	employment;
20	"(E) the continued exclusion of employers
21	of nonimmigrant alien workers in agriculture
22	from the payment of taxes under chapter 21 of
23	the Internal Revenue Code of 1986 (26 U.S.C.
24	3101 et seq.) and chapter 23 of such Code (26
25	U.S.C. 3301 et seq.);

1	"(F) the impact of farm labor costs in the
2	United States on the movement of agricultural
3	production to foreign countries;
4	"(G) a comparison of the expenses and
5	cost structure of foreign agricultural producers
6	to the expenses incurred by agricultural pro-
7	ducers based in the United States; and
8	"(H) the accuracy and reliability of the
9	Occupational Employment Statistics Survey.
10	"(5) Adverse effect wage rate.—
11	"(A) Prohibition of modification.—
12	The adverse effect wage rates in effect on April
13	15, 2013, for nonimmigrants admitted under
14	101(a)(15)(H)(ii)(a)—
15	"(i) shall remain in effect until the
16	date described in section 2233 of the Agri-
17	cultural Worker Program Act of 2013; and
18	"(ii) may not be modified except as
19	provided in subparagraph (B).
20	"(B) Exception.—Until the Secretary es-
21	tablishes the wage rates required under para-
22	graph (3)(C), the adverse effect wage rates in
23	effect on the date of the enactment of the Agri-
24	cultural Worker Program Act of 2013 shall
25	be—

1	"(i) deemed to be such wage rates;
2	and
3	"(ii) after September 1, 2015, ad-
4	justed annually in accordance with para-
5	graph (3)(B).
6	"(C) Nonpayment of fica and futa
7	TAXES.—An employer employing nonimmigrant
8	agricultural workers shall not be required to
9	pay and withhold from such workers—
10	"(i) the tax required under section
11	3101 of the Internal Revenue Code of
12	1986; or
13	"(ii) the tax required under section
14	3301 of the Internal Revenue Code of
15	1986.
16	"(6) Preferential treatment of aliens
17	PROHIBITED.—
18	"(A) In general.—Except as provided in
19	subparagraph (B), employers seeking to hire
20	United States workers shall offer the United
21	States workers not less than the same benefits,
22	wages, and working conditions that the em-
23	ployer is offering, intends to offer, or will pro-
24	vide to nonimmigrant agricultural workers. No
25	iob offer may impose on United States workers

1	any restrictions or obligations that will not be
2	imposed on the employer's nonimmigrant agri-
3	cultural workers.
4	"(B) Exception.—Notwithstanding sub-
5	paragraph (A), a designated agricultural em-
6	ployer is not required to provide housing or a
7	housing allowance to United States workers.
8	"(g) Worker Protections and Dispute Resolu-
9	TION.—
10	"(1) Equality of treatment.—Non-
11	immigrant agricultural workers shall not be denied
12	any right or remedy under any Federal, State, or
13	local labor or employment law applicable to United
14	States workers engaged in agricultural employment.
15	"(2) Applicability of the migrant and
16	SEASONAL AGRICULTURAL WORKER PROTECTION
17	ACT.—
18	"(A) MIGRANT AND SEASONAL AGRICUL-
19	TURAL WORKER PROTECTION ACT.—Non-
20	immigrant agricultural workers shall be consid-
21	ered migrant agricultural workers for purposes
22	of the Migrant and Seasonal Agricultural Work-
23	er Protection Act (29 U.S.C. 1801 et seq.).
24	"(B) ELIGIBILITY OF NONIMMIGRANT AG-
25	RICULTURAL WORKERS FOR CERTAIN LEGAL

ASSISTANCE.—A nonimmigrant agricultural worker shall be considered to be lawfully admit-ted for permanent residence for purposes of es-tablishing eligibility for legal services under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) on matters relating to wages, housing, transportation, and other employment rights.

"(C) MEDIATION.—

"(i) FREE MEDIATION SERVICES.—
The Federal Mediation and Conciliation
Service shall be available to assist in resolving disputes arising under this section
between nonimmigrant agricultural workers and designated agricultural employers
without charge to the parties.

"(ii) COMPLAINT.—If a nonimmigrant agricultural worker files a complaint under section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854), not later than 60 days after the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in

1	reaching a satisfactory resolution of all
2	issues involving all parties to the dispute.
3	"(iii) Notice.—Upon filing a request
4	under clause (ii) and giving of notice to the
5	parties, the parties shall attempt mediation
6	within the period specified in clause (iv).
7	"(iv) 90-day limit.—The Federal
8	Mediation and Conciliation Service may
9	conduct mediation or other nonbinding dis-
10	pute resolution activities for a period not
11	to exceed 90 days beginning on the date on
12	which the Federal Mediation and Concilia-
13	tion Service receives a request for assist-
14	ance under clause (ii) unless the parties
15	agree to an extension of such period.
16	"(v) Authorization of Appropria-
17	TIONS.—
18	"(I) In general.—Subject to
19	clause (II), there are authorized to be
20	appropriated to the Federal Mediation
21	and Conciliation Service \$500,000 for
22	each fiscal year to carry out this sub-
23	paragraph.
24	"(II) MEDIATION.—Notwith-
25	standing any other provision of law,

1	the Director of the Federal Mediation
2	and Conciliation Service is author-
3	ized—
4	"(aa) to conduct the medi-
5	ation or other dispute resolution
6	activities from any other account
7	containing amounts available to
8	the Director; and
9	"(bb) to reimburse such ac-
10	count with amounts appropriated
11	pursuant to subclause (I).
12	"(vi) Private mediation.—If all
13	parties agree, a private mediator may be
14	employed as an alternative to the Federal
15	Mediation and Conciliation Service.
16	"(3) Other rights.—Nonimmigrant agricul-
17	tural workers shall be entitled to the rights granted
18	to other classes of aliens under sections 242(h) and
19	245E.
20	"(4) Waiver of rights.—Agreements by non-
21	immigrant agricultural workers to waive or modify
22	any rights or protections under this section shall be
23	considered void or contrary to public policy except as
24	provided in a collective bargaining agreement with a
25	bona fide labor organization.

1	"(h) Enforcement Authority.—
2	"(1) Investigation of complaints.—
3	"(A) AGGRIEVED PERSON OR THIRD-PARTY
4	COMPLAINTS.—
5	"(i) Process.—The Secretary of
6	Labor shall establish a process for the re-
7	ceipt, investigation, and disposition of com-
8	plaints respecting a designated agricultural
9	employer's failure to meet a condition spec-
10	ified in subsection (e), or an employer's
11	misrepresentation of material facts in a pe-
12	tition under subsection (e)(2).
13	"(ii) Filing.—Any aggrieved person
14	or organization, including bargaining rep-
15	resentatives, may file a complaint referred
16	to in clause (i) not later than 1 year after
17	the date of the failure or misrepresenta-
18	tion, respectively.
19	"(iii) Investigation or hearing.—
20	The Secretary of Labor shall conduct an
21	investigation if there is reasonable cause to
22	believe that such failure or misrepresenta-
23	tion has occurred.
24	"(B) Determination on complaint.—
25	Under such process, the Secretary of Labor

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shall provide, not later than 30 days after the date on which such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (F). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

"(C) Failure to meet conditions.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition under subsection (e) or (f), or a material misrepresentation of fact in a petition under subsection (e)(2)—

1	"(i) the Secretary of Labor shall no-
2	tify the Secretary of such finding and may,
3	in addition, impose such other administra-
4	tive remedies (including civil money pen-
5	alties in an amount not to exceed \$1,000
6	per violation) as the Secretary of Labor
7	determines to be appropriate; and
8	"(ii) the Secretary may disqualify the
9	designated agricultural employer from the
10	employment of nonimmigrant agricultural
11	workers for a period of 1 year.
12	"(D) WILLFUL FAILURES AND WILLFUL
13	MISREPRESENTATIONS.—If the Secretary of
14	Labor finds, after notice and opportunity for
15	hearing, a willful failure to meet a condition
16	under subsection (e) or (f) or a willful misrepre-
17	sentation of a material fact in an registration
18	or petition under paragraph (1) or (2) of sub-
19	section (e)—
20	"(i) the Secretary of Labor shall no-
21	tify the Secretary of such finding and may,
22	in addition, impose such other administra-
23	tive remedies (including civil money pen-
24	alties in an amount not to exceed \$5.000

1	per violation) as the Secretary of Labor
2	determines to be appropriate;
3	"(ii) the Secretary of Labor may seek
4	appropriate legal or equitable relief; and
5	"(iii) the Secretary may disqualify the
6	designated agricultural employer from the
7	employment of nonimmigrant agricultural
8	workers for a period of 2 years.
9	"(E) DISPLACEMENT OF UNITED STATES
10	WORKERS.—If the Secretary of Labor finds,
11	after notice and opportunity for hearing, a will-
12	ful failure to meet a condition under subsection
13	(e) or (f) or a willful misrepresentation of a ma-
14	terial fact in an registration or petition under
15	paragraph (1) or (2) of subsection (e), in the
16	course of which failure or misrepresentation the
17	employer displaced a United States worker em-
18	ployed by the employer during the period of em-
19	ployment on the employer's petition under sub-
20	section $(e)(2)$ or during the period of 30 days
21	preceding such period of employment—
22	"(i) the Secretary of Labor shall no-
23	tify the Secretary of such finding and may,
24	in addition, impose such other administra-
25	tive remedies (including civil money pen-

	alties in an amount not to exceed \$15,000
2	per violation) as the Secretary of Labor
3	determines to be appropriate; and

"(ii) the Secretary may disqualify the employer from the employment of non-immigrant agricultural workers for a period of 3 years.

"(F) FAILURES TO PAY WAGES OR RE-QUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsections (e)(4) and (f), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or nonimmigrant agricultural worker employed by the employer in the specific employment in question. The back wages or other required benefits required under subsections (e) and (f) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

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- 1 "(G) DISPOSITION OF PENALTIES.—Civil 2 penalties collected under this paragraph shall be 3 deposited into the Comprehensive Immigration 4 Reform Trust Fund established under section 5 6(a)(1) of the Border Security, Economic Op-6 portunity, and Immigration Modernization Act.
 - "(2) LIMITATIONS ON CIVIL MONEY PEN-ALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (e)(2) in excess of \$90,000.
 - "(3) ELECTION.—A nonimmigrant agricultural worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action unless a complaint based on the same violation filed with the Secretary of Labor under paragraph (1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.
 - "(4) PRECLUSIVE EFFECT.—Any settlement by a nonimmigrant agricultural worker, a designated agricultural employer, or any person reached through the mediation process required under subsection (g)(2)(C) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative pro-

- ceeding, unless specifically provided otherwise in the settlement agreement.
- "(5) Settlements.—Any settlement by the Secretary of Labor with a designated agricultural worker on behalf of a nonimmigrant agricultural worker of a complaint filed with the Secretary of Labor under this section or any finding by the Sec-retary of Labor under this subsection shall preclude any right of action arising out of the same facts be-tween the parties under any Federal or State court or administrative proceeding, unless specifically pro-vided otherwise in the settlement agreement.
 - "(6) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section.
 - "(7) DISCRIMINATION PROHIBITED.—It is a violation of this subsection for any person who has filed a petition under subsection (e) or (f) to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an em-

1	ployee, including a former employee or an applicant
2	for employment, because the employee—
3	"(A) has disclosed information to the em-
4	ployer, or to any other person, that the em-
5	ployee reasonably believes evidences a violation
6	of subsection (e) or (f), or any rule or regula-
7	tion relating to subsection (e) or (f); or
8	"(B) cooperates or seeks to cooperate in an
9	investigation or other proceeding concerning the
10	employer's compliance with the requirements
11	under subsection (e) or (f) or any rule or regu-
12	lation pertaining to subsection (e) or (f).
13	"(8) Role of associations.—
14	"(A) VIOLATION BY A MEMBER OF AN AS-
15	SOCIATION.—
16	"(i) In general.—If an association
17	acting as the agent of an employer files an
18	application on behalf of such employer, the
19	employer is fully responsible for such appli-
20	cation, and for complying with the terms
21	and conditions of subsection (e). If such an
22	employer is determined to have violated
23	any requirement described in this sub-
24	section, the penalty for such violation shall

1	apply only to that employer except as pro-
2	vided in clause (ii).
3	"(ii) Collective responsibility.—
4	If the Secretary of Labor determines that
5	the association or other members of the as-
6	sociation participated in, had knowledge of,
7	or reason to know of a violation described
8	in clause (i), the penalty shall also be in-
9	voked against the association and complicit
10	association members.
11	"(B) VIOLATIONS BY AN ASSOCIATION
12	ACTING AS AN EMPLOYER.—
13	"(i) In General.—If an association
14	filing an application as a sole or joint em-
15	ployer is determined to have violated any
16	requirement described in this section, the
17	penalty for such violation shall apply only
18	to the association except as provided in
19	clause (ii).
20	"(ii) Member responsibility.—If
21	the Secretary of Labor determines that 1
22	or more association members participated
23	in, had knowledge of, or reason to know of
24	the violation described in clause (i), the

1	penalty shall be invoked against all
2	complicit association members.
3	"(i) Special Nonimmigrant Visa Processing and
4	Wage Determination Procedures for Certain Ag-
5	RICULTURAL OCCUPATIONS.—
6	"(1) FINDING.—Certain industries possess
7	unique occupational characteristics that necessitate
8	the Secretary of Agriculture to adopt special proce-
9	dures relating to housing, pay, and visa program ap-
10	plication requirements for those industries.
11	"(2) Special procedures industry de-
12	FINED.—In this subsection, the term 'Special Proce-
13	dures Industry' means—
14	"(A) sheepherding and goat herding;
15	"(B) itinerant commercial beekeeping and
16	pollination;
17	"(C) open range production of livestock;
18	"(D) itinerant animal shearing; and
19	"(E) custom combining industries.
20	"(3) Work locations.—The Secretary shall
21	allow designated agricultural employers in a Special
22	Procedures Industry that do not operate in a single
23	fixed-site location to provide, as part of its registra-
24	tion or petition under the Program, a list of antici-
25	pated work locations, which—

1	"(A) may include an anticipated itinerary;
2	and
3	"(B) may be subsequently amended by the
4	employer, after notice to the Secretary.
5	"(4) Wage rates.—The Secretary may estab-
6	lish monthly, weekly, or biweekly wage rates for oc-
7	cupations in a Special Procedures Industry for a
8	State or other geographic area. For an employer in
9	those Special Procedures Industries that typically
10	pay a monthly wage, the Secretary shall require that
11	workers will be paid not less frequently than month-
12	ly and at a rate no less than the legally required
13	monthly cash wage for such employer as of the date
14	of the enactment of the Border Security, Economic
15	Opportunity, and Immigration Modernization Act
16	and in an amount as re-determined annually by the
17	Secretary of Agriculture through rulemaking.
18	"(5) Housing.—The Secretary shall allow for
19	the provision of housing or a housing allowance by
20	employers in Special Procedures Industries and
21	allow housing suitable for workers employed in re-
22	mote locations.
23	"(6) Allergy limitation.—An employer en-
24	gaged in the commercial beekeeping or pollination
25	services industry may require that an applicant be

- free from bee pollen, venom, or other bee-related allergies.
 - "(7) APPLICATION.—An individual employer in a Special Procedures Industry may file a program petition on its own behalf or in conjunction with an association of employers. The employer's petition may be part of several related petitions submitted simultaneously that constitute a master petition.
 - "(8) Rulemaking.—The Secretary or, as appropriate, the Secretary of Homeland Security or the Secretary of Labor, after consultation with employers and employee representatives, shall publish for notice and comment proposed regulations relating to housing, pay, and application procedures for Special Procedures Industries.

"(j) Miscellaneous Provisions.—

"(1) DISQUALIFICATION OF NONIMMIGRANT AGRICULTURAL WORKERS FROM FINANCIAL ASSIST-ANCE.—An alien admitted as a nonimmigrant agricultural worker is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Secretary in consultation with other agencies of the United States.

1	"(2) Monitoring requirement.—
2	"(A) IN GENERAL.—The Secretary shall
3	monitor the movement of nonimmigrant agricul-
4	tural workers through—
5	"(i) the Employment Verification Sys-
6	tem described in section 274A(b); and
7	"(ii) the electronic monitoring system
8	established pursuant to subparagraph (B)
9	"(B) ELECTRONIC MONITORING SYSTEM.—
10	Not later than 2 years after the effective date
11	of this section, the Secretary of Homeland Se-
12	curity, through the Director of U.S. Citizenship
13	and Immigration Services, shall establish an
14	electronic monitoring system, which shall—
15	"(i) be modeled on the Student and
16	Exchange Visitor Information System
17	(SEVIS) and the SEVIS II tracking sys-
18	tem administered by U.S. Immigration and
19	Customs Enforcement;
20	"(ii) monitor the presence and em-
21	ployment of nonimmigrant agricultural
22	workers; and
23	"(iii) assist in ensuring the compli-
24	ance of designated agricultural employers

1	and nonimmigrant agricultural workers
2	with the requirements of the Program.".
3	(b) Rulemaking.—The Secretary of Agriculture
4	shall issue regulations to carry out section 218A of the
5	Immigration and Nationality Act, as added by subsection
6	(a), not later than 1 year after the date of the enactment
7	of this Act.
8	(c) Clerical Amendment.—The table of contents
9	is amended by inserting after the item relating to section
10	218 the following:
	"Sec. 218A. Nonimmigrant agricultural worker program.".
11	(d) Effective Date.—The amendments made by
12	this section shall take effect on October 1, 2014.
13	SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM.
13 14	SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM. (a) SUNSET OF PROGRAM.—
14	(a) Sunset of Program.—
14 15	(a) Sunset of Program.—(1) In general.—Except as provided in para-
14 15 16	 (a) Sunset of Program.— (1) In general.—Except as provided in paragraph (2), an employer may not petition to employ
14 15 16 17	 (a) Sunset of Program.— (1) In general.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of
14 15 16 17	(a) Sunset of Program.— (1) In general.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C.
114 115 116 117 118	(a) Sunset of Program.— (1) In General.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year
14 15 16 17 18 19 20	(a) Sunset of Program.— (1) In General.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year after the date on which the regulations issued pursu-
14 15 16 17 18 19 20 21	(a) Sunset of Program.— (1) In General.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year after the date on which the regulations issued pursuant to section 2241(b) become effective.
14 15 16 17 18 19 20 21	 (a) Sunset of Program.— (1) In general.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year after the date on which the regulations issued pursuant to section 2241(b) become effective. (2) Exception.—An employer may employ an

1	(b) Conforming Amendments.—
2	(1) Repeal of H-2A nonimmigrant cat-
3	EGORY.—Section 101(a)(15)(H)(ii) (8 U.S.C.
4	1101(a)(15)(H)(ii)) is amended by striking sub-
5	clause (a).
6	(2) Repeal of admission requirements for
7	H–2A WORKER.—Section 218 (8 U.S.C. 1188) is re-
8	pealed.
9	(3) Conforming amendments.—
10	(A) Amendment of petition require-
11	MENTS.—Section $214(c)(1)$ (8 U.S.C.
12	1184(c)(1)) is amended by striking "For pur-
13	poses of this subsection" and all that follows.
14	(B) CLERICAL AMENDMENT.—The table of
15	contents is amended by striking the item relat-
16	ing to section 218.
17	(4) Effective date.—The amendments made
18	by this subsection shall take effect on the date that
19	is 1 year after the effective date of the regulations
20	issued pursuant to section 2241(b).
21	SEC. 2234. REPORTS TO CONGRESS ON NONIMMIGRANT AG-
22	RICULTURAL WORKERS.
23	(a) Annual Report by Secretary of Agri-
24	CULTURE.—Not later than September 30 of each year, the
25	Secretary of Agriculture shall submit a report to Congress

1	that identifies, for the previous year, the number,
2	disaggregated by State and by occupation, of—
3	(1) job opportunities approved for employment
4	of aliens admitted pursuant to clause (iii) or clause
5	(iv) of section 101(a)(15)(W) of the Immigration
6	and Nationality Act, as added by section 2231; and
7	(2) aliens actually admitted pursuant to each
8	such clause.
9	(b) Annual Report by Secretary of Homeland
10	SECURITY.—Not later than September 30 of each year,
11	the Secretary shall submit a report to Congress that iden-
12	tifies, for the previous year, the number of aliens described
13	in subsection (a)(2) who—
14	(1) violated the terms of the nonimmigrant ag-
15	ricultural worker program established under section
16	218A(b) of the Immigration and Nationality Act, as
17	added by section 2232; and
18	(2) have not departed from the United States.
19	CHAPTER 3—OTHER PROVISIONS
20	SEC. 2241. RULEMAKING.
21	(a) Consultation Requirement.—In the course of
22	promulgating any regulation necessary to implement this
23	subtitle, or the amendments made by this subtitle, the Sec-
24	retary, the Secretary of Agriculture, the Secretary of

- 1 Labor, and the Secretary of State shall regularly consult
- 2 with each other.
- 3 (b) Deadline for Issuance of Regulations.—
- 4 Except as provided in section 2232(b), all regulations to
- 5 implement this subtitle and the amendments made by this
- 6 subtitle shall be issued not later than 6 months after the
- 7 date of the enactment of this Act.

8 SEC. 2242. REPORTS TO CONGRESS.

- 9 Not later than 180 days after the date of the enact-
- 10 ment of this Act, the Secretary and the Secretary of Agri-
- 11 culture shall jointly submit a report to Congress that de-
- 12 scribes the measures being taken and the progress made
- 13 in implementing this subtitle and the amendments made
- 14 by this subtitle.

15 SEC. 2243. BENEFITS INTEGRITY PROGRAMS.

- 16 (a) IN GENERAL.—Without regard to whether per-
- 17 sonal interviews are conducted in the adjudication of bene-
- 18 fits provided for by section 210A, 218A, 245B, 245C,
- 19 245D, 245E, or 245F of the Immigration and Nationality
- 20 Act, or in seeking a benefit under section 101(a)(15)(U)
- 21 of the Immigration and Nationality Act, section 1242 of
- 22 the Refugee Crisis in Iraq Act of 2007 (8 U.S.C. 1157)
- 23 note), section 602(b) of the Afghan Allies Protection Act
- 24 of 2009 (8 U.S.C. 1101 note), or section 2211 of this Act,
- 25 the Secretary shall uphold and maintain the integrity of

- 1 those benefits by carrying out for each of them, within
- 2 the Fraud Detection and National Security Directorate of
- 3 U.S. Citizenship and Immigration Services, programs as
- 4 follows:
- 5 (1) A benefit fraud assessment program to
- 6 quantify fraud rates, detect ongoing fraud trends,
- 7 and develop appropriate countermeasures, including
- 8 through a random sample of both pending and com-
- 9 pleted cases.
- 10 (2) A compliance review program, including site
- visits, to identify frauds and deter fraudulent and il-
- legal activities.
- 13 (b) Reports.—
- 14 (1) IN GENERAL.—Not later than 90 days after
- the date of the enactment of this Act, U.S. Citizen-
- ship and Immigration Services shall annually submit
- to Congress a report on the programs carried out
- pursuant to subsection (a).
- 19 (2) Elements in first report.—The initial
- report submitted under paragraph (1) shall include
- the methodologies to be used by the Fraud Detection
- and National Security Directorate for each of the
- programs specified in paragraphs (1) and (2) of sub-
- section (a).

- 1 (3) Elements in subsequent reports.—
- 2 Each subsequent report under paragraph (1) shall
- 3 include, for the calendar year covered by such re-
- 4 port, a descriptions of examples of fraud detected,
- 5 fraud rates for programs and types of applicants,
- and a description of the disposition of the cases in
- 7 which fraud was detected or suspected.
- 8 (c) Use of Findings of Fraud.—Any instance of
- 9 fraud or abuse detected pursuant to a program carried
- 10 out pursuant to subsection (a) may be used to deny or
- 11 revoke benefits, and may also be referred to U.S. Immi-
- 12 gration and Customs Enforcement for investigation of
- 13 criminal violations of section 266 of the Immigration and
- 14 Nationality Act (8 U.S.C. 1306).
- (d) Funding.—There are authorized to be appro-
- 16 priated, from the Comprehensive Immigration Reform
- 17 Trust Fund established under section 6(a)(1), such sums
- 18 as may be necessary to carry out this section.
- 19 SEC. 2244. EFFECTIVE DATE.
- This subtitle and the amendments made by this sub-
- 21 title, except for sections 2231, 2232, and 2233, shall take
- 22 effect on the date on which the regulations required under
- 23 section 2241 are issued, regardless of whether such regu-
- 24 lations are issued on an interim basis or on any other
- 25 basis.

Subtitle C—Future Immigration

2	SEC. 2301. MERIT-BASED POINTS TRACK ONE.
3	(a) In General.—
4	(1) Worldwide level of merit-based immi-
5	GRANTS.—Section 201(e) (8 U.S.C. 1151(e)) is
6	amended to read as follows:
7	"(e) Worldwide Level of Merit-based Immi-
8	GRANTS.—
9	"(1) In general.—
10	"(A) Numerical limitation.—Subject to
11	paragraphs (2), (3), and (4), the worldwide
12	level of merit-based immigrants is equal to
13	120,000 for each fiscal year.
14	"(B) Status.—An alien admitted on the
15	basis of a merit-based immigrant visa under
16	this section shall have the status of an alien
17	lawfully admitted for permanent residence.
18	"(2) Annual increase.—
19	"(A) In General.—Subject to subpara-
20	graph (B) and paragraph (3), if in any fiscal
21	year the worldwide level of visas available for
22	merit-based immigrants under this section—
23	"(i) is less than 75 percent of the
24	number of applicants for such fiscal year,

1	the worldwide level shall increase by 5 per-
2	cent for the next fiscal year; and
3	"(ii) is equal to or more than 75 per-
4	cent of such number, the worldwide level
5	for the next fiscal year shall be the same
6	as the worldwide level for such fiscal year,
7	minus any amount added to the worldwide
8	level for such fiscal year under paragraph
9	(4).
10	"(B) Limitation on increase.—The
11	worldwide level of visas available for merit-
12	based immigrants shall not exceed 250,000.
13	"(3) Employment consideration.—The
14	worldwide level of visas available for merit-based im-
15	migrants may not be increased for a fiscal year
16	under paragraph (2) if the annual average unem-
17	ployment rate for the civilian labor force 18 years or
18	over in the United States, as determined by the Bu-
19	reau of Labor Statistics, for such previous fiscal
20	year is more than $8\frac{1}{2}$ percent.
21	"(4) RECAPTURE OF UNUSED VISAS.—The
22	worldwide level of merit-based immigrants described
23	in paragraph (1) for a fiscal year shall be increased
24	by the difference (if any) between the worldwide
25	level established under paragraph (1) for the pre-

1	vious fiscal year and the number of visas actually
2	issued under this subsection during that fiscal year
3	Such visas shall be allocated for the following year
4	pursuant to section 203(c)(3).".
5	(2) Merit-based immigrants.—Section 203
6	(8 U.S.C. 1153) is amended by inserting after sub-
7	section (b) the following:
8	"(c) Merit-based Immigrants.—
9	"(1) FISCAL YEARS 2015 THROUGH 2017.—Dur-
10	ing each of the fiscal years 2015 through 2017, the
11	worldwide level of merit-based immigrant visas made
12	available under section 201(e)(1) shall be available
13	for aliens described in section 203(b)(3) and in addi-
14	tion to any visas available for such aliens under such
15	section.
16	"(2) Subsequent fiscal years.—During fis-
17	cal year 2018 and each subsequent fiscal year, aliens
18	subject to the worldwide level specified in section
19	201(e) for merit-based immigrants shall be allocated
20	as follows:
21	"(A) 50 percent shall be available to appli-
22	cants with the highest number of points allo-
23	cated under tier 1 in paragraph (4).

1	"(B) 50 percent shall be available to appli-
2	cants with the highest number of points allo-
3	cated under tier 2 in paragraph (5).
4	"(3) Unused visas.—If the total number of
5	visas allocated to tier 1 or tier 2 for a fiscal year
6	are not granted during that fiscal year, such number
7	may be added to the number of visas available under
8	section 201(e)(1) for the following fiscal year and al-
9	located as follows:
10	"(A) If the unused visas were allocated for
11	tier 1 in a fiscal year, 2/3 of such visas shall be
12	available for aliens allocated visas under tier 1
13	in the following fiscal year and ½ of such visas
14	shall be available for aliens allocated visas
15	under either tier 1 or tier 2 in the following fis-
16	cal year.
17	"(B) If the unused visas were allocated for
18	tier 2 in a fiscal year, 2/3 of such visas shall be
19	available for aliens allocated visas under tier 2
20	in the following fiscal year and ½ of such visas
21	shall be available for aliens allocated visas

under either tier 1 or tier 2 in the following fis-

cal year.

22

1	"(4) Tier 1.—The Secretary shall allocate
2	points to each alien seeking to be a tier 1 merit-
3	based immigrant as follows:
4	"(A) Education.—
5	"(i) In general.—An alien may re-
6	ceive points under only 1 of the following
7	categories:
8	"(I) An alien who has received a
9	doctorate degree from an institution
10	of higher education in the United
11	States or the foreign equivalent shall
12	be allocated 15 points.
13	"(II) An alien who has received a
14	master's degree from an institution of
15	higher education in the United States
16	or the foreign equivalent shall be allo-
17	cated 10 points.
18	"(ii) An alien who has received a
19	bachelor's degree from an institution of
20	higher education (as defined in section
21	101(a) of the Higher Education Act of
22	1965 (20 U.S.C. 1001(a))) shall be allo-
23	cated 5 points.

1	"(B) Employment experience.—An
2	alien shall be allocated not more than 20 points
3	as follows:
4	"(i) 3 points for each year the alien
5	has been lawfully employed in a zone 5 oc-
6	cupation in the United States.
7	"(ii) 2 points for each year the alien
8	has been lawfully employed in a zone 4 oc-
9	cupation in the United States.
10	"(C) Employment related to edu-
11	CATION.—An alien who is in the United States
12	and is employed full-time or has an offer of full-
13	time employment in a field related to the alien's
14	education—
15	"(i) in a zone 5 occupation shall be al-
16	located 10 points; or
17	"(ii) in a zone 4 occupation shall be
18	allocated 8 points.
19	"(D) Entrepreneurship.—An alien who
20	is an entrepreneur in business that employs at
21	least 2 employees in a zone 4 occupation or a
22	zone 5 occupation shall be allocated 10 points.
23	"(E) High demand occupation.—An
24	alien who is employed full-time in the United
25	States or has an offer of full-time employment

1	in a high demand tier 1 occupation shall be al-
2	located 10 points.
3	"(F) CIVIC INVOLVEMENT.—An alien who
4	has attested that he or she has engaged in a
5	significant amount of community service, as de-
6	termined by the Secretary, shall be allocated 2
7	points.
8	"(G) English language.—An alien who
9	received a score of 80 or more on the Test of
10	English as a Foreign Language, or an equiva-
11	lent score on a similar test, as determined by
12	the Secretary, shall be allocated 10 points.
13	"(H) Siblings and married sons and
14	DAUGHTERS OF CITIZENS.—An alien who is the
15	sibling of a citizen of the United States or who
16	is over 31 years of age and is the married son
17	or married daughter of a citizen of the United
18	States shall be allocated 10 points.
19	"(I) Age.—An alien who is—
20	"(i) between 18 and 24 years of age
21	shall be allocated 8 points;
22	"(ii) between 25 and 32 years of age
23	shall be allocated 6 points; or
24	"(iii) between 33 and 37 years of age
25	shall be allocated 4 points.

1	"(J) COUNTRY OF ORIGIN.—An alien who
2	is a national of a country of which fewer than
3	50,000 nationals were lawfully admitted to per-
4	manent residence in the United States in the
5	previous 5 years shall be allocated 5 points.
6	"(5) Tier 2.—The Secretary shall allocate
7	points to each alien seeking to be a tier 2 merit-
8	based immigrant as follows:
9	"(A) Employment experience.—An
10	alien shall be allocated 2 points for each year
11	the alien has been lawfully employed in the
12	United States, for a total of not more than 20
13	points.
14	"(B) Special employment criteria.—
15	An alien who is employed full-time in the
16	United States, or has an offer of full-time em-
17	ployment—
18	"(i) in a high demand tier 2 occupa-
19	tion shall be allocated 10 points; or
20	"(ii) in a zone 1, zone 2, or zone 3 oc-
21	cupation shall be allocated 10 points.
22	"(C) Caregiver.—An alien who is or has
23	been a primary caregiver shall be allocated 10
24	points.

1	"(D) EXCEPTIONAL EMPLOYMENT
2	RECORD.—An alien who has a record of excep-
3	tional employment, as determined by the Sec-
4	retary, shall be allocated 10 points. In deter-
5	mining a record of exceptional employment, the
6	Secretary shall consider factors including pro-
7	motions, longevity, changes in occupations from
8	a lower job zone to a higher job zone, partici-
9	pated in safety training, and increases in pay
10	"(E) CIVIC INVOLVEMENT.—An alien who
11	has demonstrated significant civic involvement
12	shall be allocated 2 points.
13	"(F) English language.—
14	"(i) English proficiency.—An
15	alien who has demonstrated English pro-
16	ficiency, as determined by a standardized
17	test designated by the Secretary of Edu-
18	cation, shall be allocated 10 points.
19	"(ii) English knowledge.—An
20	alien who has demonstrated English knowl-
21	edge, as determined by a standardized test
22	designated by the Secretary of Education
23	shall be allocated 5 points.
24	"(G) SIBLINGS AND MARRIED SONS AND
25	DAUGHTERS OF CITIZENS.—An alien who is the

1	sibling of a citizen of the United States or is
2	over the age of 31 and is the married son or
3	married daughter of a citizen of the United
4	States shall be allocated 10 points.
5	"(H) Age.—An alien who is—
6	"(i) between 18 and 24 years of age
7	shall be allocated 8 points;
8	"(ii) between 25 and 32 years of age
9	shall be allocated 6 points; or
10	"(iii) between 33 and 37 years of age
11	shall be allocated 4 points.
12	"(I) COUNTRY OF ORIGIN.—An alien who
13	is a national of a country of which fewer than
14	50,000 nationals were lawfully admitted to per-
15	manent residence in the United States in the
16	previous 5 years shall be allocated 5 points.
17	"(6) Application procedures.—
18	"(A) Submission.—During the 30-day pe-
19	riod beginning on the first October 1 occurring
20	at least 3 years after the date of the enactment
21	of the Border Security, Economic Opportunity,
22	and Immigration Modernization Act, and dur-
23	ing each 30-day period beginning on October 1
24	in subsequent years, eligible aliens may submit,
25	to U.S. Citizenship and Immigration Services.

1	an application for a merit-based immigrant visa
2	that contains such information as the Secretary
3	may reasonably require.
4	"(B) ADJUDICATION.—Before the last day
5	of each fiscal year in which applications are
6	filed pursuant to subparagraph (A), the Direc-
7	tor, U.S. Citizenship and Immigration Services,
8	shall—
9	"(i) review the applications to deter-
10	mine which aliens will be granted a merit-
11	based immigrant visa in the following fiscal
12	year in accordance with this subsection;
13	and
14	"(ii) in coordination with the Sec-
15	retary of State, provide such visas to all
16	successful applicants.
17	"(C) Fee.—An alien who is allocated a
18	visa under this subsection shall pay a fee of
19	\$1,500 in addition to any fee assessed to cover
20	the costs to process an application under this
21	subsection. Fees collected under this paragraph
22	shall be deposited by the Secretary into the
23	Comprehensive Immigration Reform Trust
24	Fund established under section $6(a)(1)$ of the

1	Border Security, Economic Opportunity, and
2	Immigration Modernization Act.
3	"(7) Eligibility of aliens in registered
4	PROVISIONAL IMMIGRANT STATUS.—An alien who
5	was granted registered provisional immigrant status
6	under section 245B is not eligible to receive a merit-
7	based immigrant visa under section 201(e).
8	"(8) Ineligibility of Aliens with Pending
9	OR APPROVED PETITIONS.—An alien who has a peti-
10	tion pending or approved in another immigrant cat-
11	egory under this section or section 201 may not
12	apply for a merit-based immigrant visa.
13	"(9) Definitions.—In this subsection:
14	"(A) HIGH DEMAND TIER 1 OCCUPA-
15	TION.—The term 'high demand tier 1 occupa-
16	tion' means 1 of the 5 occupations for which
17	the highest number of nonimmigrants described
18	in section $101(a)(15)(H)(i)$ were sought to be
19	admitted by employers during the previous fis-
20	cal year.
21	"(B) High demand tier 2 occupa-
22	TION.—The term 'high demand tier 2 occupa-
23	tion' means 1 of the 5 occupations for which

the highest number of positions were sought to

1	become registered positions by employers under
2	section 220(e) during the previous fiscal year.
3	"(C) Secretary.—The term 'Secretary'
4	means the Secretary of Homeland Security.
5	"(D) ZONE 1 OCCUPATION.—The term
6	'zone 1 occupation' means an occupation that
7	requires little or no preparation and is classified
8	as a zone 1 occupation on—
9	"(i) the Occupational Information
10	Network Database (O*NET) on the date
11	of the enactment of the Border Security,
12	Economic Opportunity, and Immigration
13	Modernization Act; or
14	"(ii) such Database or a similar suc-
15	cessor database, as designated by the Sec-
16	retary of Labor, after such date of enact-
17	ment.
18	"(E) ZONE 2 OCCUPATION.—The term
19	'zone 2 occupation' means an occupation that
20	requires some preparation and is classified as a
21	zone 2 occupation on—
22	"(i) the Occupational Information
23	Network Database (O*NET) on the date
24	of the enactment of the Border Security,

1	Economic Opportunity, and Immigration
2	Modernization Act; or
3	"(ii) such Database or a similar suc-
4	cessor database, as designated by the Sec-
5	retary of Labor, after such date of enact-
6	ment.
7	"(F) ZONE 3 OCCUPATION.—The term
8	'zone 3 occupation' means an occupation that
9	requires medium preparation and is classified
10	as a zone 3 occupation on—
11	"(i) the Occupational Information
12	Network Database (O*NET) on the date
13	of the enactment of the Border Security,
14	Economic Opportunity, and Immigration
15	Modernization Act; or
16	"(ii) such Database or a similar suc-
17	cessor database, as designated by the Sec-
18	retary of Labor, after such date of enact-
19	ment.
20	"(G) ZONE 4 OCCUPATION.—The term
21	'zone 4 occupation' means an occupation that
22	requires considerable preparation and is classi-
23	fied as a zone 4 occupation on—
24	"(i) the Occupational Information
25	Network Database (O*NET) on the date

1	of the enactment of the Border Security,
2	Economic Opportunity, and Immigration
3	Modernization Act; or
4	"(ii) such Database or a similar suc-
5	cessor database, as designated by the Sec-
6	retary of Labor, after such date of enact-
7	ment.
8	"(H) ZONE 5 OCCUPATION.—The term
9	'zone 5 occupation' means an occupation that
10	requires extensive preparation and is classified
11	as a zone 5 occupation on—
12	"(i) the Occupational Information
13	Network Database (O*NET) on the date
14	of the enactment of the Border Security,
15	Economic Opportunity, and Immigration
16	Modernization Act; or
17	"(ii) such Database or a similar suc-
18	cessor database, as designated by the Sec-
19	retary of Labor, after such date of enact-
20	ment.".
21	(3) GAO STUDY AND REPORT.—
22	(A) Study.—The Comptroller General of
23	the United States shall conduct a study of the
24	merit-based immigration system established
25	under section $203(c)$ of the Immigration and

1	Nationality Act, as amended by paragraph (2),
2	to determine, during the first 7 years of such
3	system—
4	(i) how the points described in para-
5	graphs $(4)(H)$, $(4)(J)$, $(5)(G)$, and $(5)(I)$
6	of section 203(e) of such Act were utilized;
7	(ii) how many of the points allocated
8	to people lawfully admitted for permanent
9	residence were allocated under such para-
10	graphs;
11	(iii) how many people who were allo-
12	cated points under such paragraphs were
13	not lawfully admitted to permanent resi-
14	dence;
15	(iv) the countries of origin of the peo-
16	ple who applied for a merit-based visa
17	under section 203(c) of such Act;
18	(v) the number of such visas issued
19	under tier 1 and tier 2 to males and fe-
20	males, respectively;
21	(vi) the age of individuals who were
22	issued such visas; and
23	(vii) the educational attainment and
24	occupation of people who were issued such
25	visas.

1 (B) Report.—Not later than 7	years	after
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- 2 the date of the enactment of this Act, the
- 3 Comptroller General shall submit a report to
- 4 Congress that describes the results of the study
- 5 conducted pursuant to subparagraph (A).
- 6 (b) Modification of Points.—The Secretary may
- 7 submit to Congress a proposal to modify the number of
- 8 points allocated under subsection (c) of section 203 of the
- 9 Immigration and Nationality Act (8 U.S.C. 1153), as
- 10 amended by subsection (a).
- 11 (c) Effective Date.—The amendments made by
- 12 this section shall take effect on October 1, 2014.
- 13 SEC. 2302. MERIT-BASED TRACK TWO.
- 14 (a) IN GENERAL.—In addition to any immigrant visa
- 15 made available under the Immigration and Nationality Act
- 16 (8 U.S.C. 1101 et seq.), as amended by this Act, the Sec-
- 17 retary of State shall allocate merit-based immigrant visas
- 18 as described in this section.
- 19 (b) Status.—An alien admitted on the basis of a
- 20 merit-based immigrant visa under this section shall have
- 21 the status of an alien lawfully admitted for permanent res-
- 22 idence (as that term is defined in section 101(a)(20) of
- 23 the Immigration and Nationality Act (8 U.S.C.
- 24 1101(a)(20))).

1	(c) ELIGIBILITY.—Beginning on October 1, 2014, the
2	following aliens shall be eligible for merit-based immigrant
3	visas under this section:
4	(1) Employment-based immigrants.—An
5	alien who is the beneficiary of a petition filed before
6	the date of the enactment of this Act to accord sta-
7	tus under section 203(b) of the Immigration and
8	Nationality Act, if the visa has not been issued with-
9	in 5 years after the date on which such petition was
10	filed.
11	(2) Family-sponsored immigrants.—Subject
12	to subsection (d), an alien who is the beneficiary of
13	a petition filed to accord status under section 203(a)
14	of the Immigration and Nationality Act—
15	(A) prior to the date of the enactment of
16	this Act, if the visa was not issued within 5
17	years after the date on which such petition was
18	filed; or
19	(B) after such date of enactment, to ac-
20	cord status under paragraph (3) or (4) of sec-
21	tion 203(a) of the Immigration and Nationality
22	Act (8 U.S.C. 1153(a)), as in effect the minute
23	before the effective date specified in section
24	2307(a)(3) of this Act, and the visa was not

1	issued within 5 years after the date on which
2	petition was filed.
3	(3) Long-term alien workers and other
4	MERIT-BASED IMMIGRANTS.—An alien who—
5	(A) is not admitted pursuant to subpara-
6	graph (W) of section 101(a)(15) of the Immi-
7	gration and Nationality Act (8 U.S.C.
8	1101(a)(15); and
9	(B) has been lawfully present in the
10	United States in a status that allows for em-
11	ployment authorization for a continuous period,
12	not counting brief, casual, and innocent ab-
13	sences, of not less than 10 years.
14	(d) Allocation of Employment-sponsored
15	MERIT-BASED IMMIGRANT VISAS.—In each of the fiscal
16	years 2015 through and including 2021, the Secretary of
17	State shall allocate to aliens described in subsection $(c)(1)$
18	a number of merit-based immigrant visas equal to $\frac{1}{7}$ of
19	the number of aliens described in subsection $(c)(1)$ whose
20	visas had not been issued as of the date of the enactment
21	of this Act.
22	(e) Allocation of Family-sponsored Merit-
23	BASED IMMIGRANT VISAS.—The visas authorized by sub-
24	section (c)(2) shall be allocated as follows:

1	(1) Spouses and Children of Permanent
2	RESIDENTS.—Petitions to accord status under sec-
3	tion 203(a)(2)(A) of the Immigration and Nation-
4	ality Act (8 U.S.C. 1153(a)(2)(A)), as in effect the
5	minute before the effective date specified in section
6	2307(a)(3) of this Act, are automatically converted
7	to petitions to accord status to the same bene-
8	ficiaries as immediate relatives under section
9	201(b)(2)(A) of the Immigration and Nationality
10	Act (8 U.S.C. 1151(b)(2)(A)).
11	(2) Other family members.—In each of the
12	fiscal years 2015 through and including 2021, the
13	Secretary of State shall allocate to the aliens de-
14	scribed in subsection (e)(2)(A), other than those
15	aliens described in paragraph (1), a number of tran-
16	sitional merit-based immigrant visas equal to $\frac{1}{7}$ of
17	the difference between—
18	(A) the number of aliens described in sub-
19	section (c)(2)(A) whose visas had not been
20	issued as of the date of the enactment of this
21	Act; and
22	(B) the number of aliens described in
23	paragraph (1).
24	(3) Order of issuance for previously

FILED APPLICATIONS.—Subject to paragraphs (1)

- and (2), the visas authorized by subsection (c)(2)(A)shall be issued without regard to a per country limi-tation in the order described in section 203(a) of the Nationality Immigration and Act (8 U.S.C. 1153(a)), as amended by section 2305(b), in the order in which the petitions to accord status under such section 203(a) were filed prior to the date of the enactment of this Act.
 - (4) Subsequently filed applications.—In fiscal year 2022, the Secretary of State shall allocate to the aliens described in subsection (c)(2)(B), the number of merit-based immigrant visas equal to ½ of the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2021. In fiscal year 2023, the Secretary of State shall allocate to the aliens described in subsection (c)(2)(B), the number of merit-based immigrant visas equal to the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2022.
 - (5) ORDER OF ISSUANCE FOR SUBSEQUENTLY FILED APPLICATIONS.—Subject to paragraph (4), the visas authorized by subsection (c)(2)(B) shall be issued in the order in which the petitions to accord status under section 203(a) of the Immigration and

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1
        Nationality Act were filed, as in effect the minute
 2
                the
        before
                      effective date
                                       specified in
                                                     section
 3
        2307(a)(3) of this Act.
 4
        (f) Applicability of Certain Grounds of Inad-
    MISSIBILITY.—In determining an alien's inadmissibility
 6
    under this section, section 212(a)(9)(B) of the Immigra-
    tion and Nationality Act (8 U.S.C. 1182(a)(9)(B)) shall
 8
    not apply.
 9
        (g) Eligibility in Years After 2028.—Beginning
10
    in fiscal year 2029, aliens eligible for adjustment of status
    under subsection (c)(3) must be lawfully present in an em-
12
    ployment authorized status for 20 years prior to filing an
13
    application for adjustment of status.
14
    SEC. 2303. REPEAL OF THE DIVERSITY VISA PROGRAM.
        (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)
15
   is amended—
16
17
             (1) in section 201(a) (8 U.S.C. 1151(a))—
                  (A) in paragraph (1), by adding "and" at
18
19
             the end;
20
                  (B) in paragraph (2), by striking "; and"
21
             at the end and inserting a period; and
22
                  (C) by striking paragraph (3);
23
             (2) in section 203 (8 U.S.C. 1153)—
24
                  (A) by striking subsection (c);
25
                  (B) in subsection (e)—
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1	(i) by striking paragraph (2); and
2	(ii) by redesignating paragraph (3) as
3	paragraph (2);
4	(C) in subsection (f), by striking "(a), (b),
5	or (c) of this section" and inserting "(a) or
6	(b)"; and
7	(D) in subsection (g), by striking "(a), (b),
8	and (c)" and inserting "(a) and (b)"; and
9	(3) in section 204 (8 U.S.C. 1154)—
10	(A) in subsection (a), as amended by sec-
11	tion 2305(d)(6)(A)(i), by striking paragraph
12	(8); and
13	(B) in subsection (e), by striking "(a), (b),
14	or (c)" and inserting "(a) or (b)".
15	(b) EFFECTIVE DATE AND APPLICATION.—
16	(1) Effective date.—The amendments made
17	by this section shall take effect on October 1, 2014.
18	(2) APPLICATION.—An alien who receives a no-
19	tification from the Secretary that the alien was se-
20	lected to receive a diversity immigrant visa under
21	section 203(c) of the Immigration and Nationality
22	Act (8 U.S.C. 1153(c)) for fiscal year 2013 or fiscal
23	year 2014 shall remain eligible to receive such visa
24	under the rules of such section, as in effect on Sep-
25	tember 30, 2014. No alien may be allocated such a

1	diversity immigrant visa for a fiscal year after fiscal
2	year 2015.
3	SEC. 2304. WORLDWIDE LEVELS AND RECAPTURE OF UN-
4	USED IMMIGRANT VISAS.
5	(a) Employment-based Immigrants.—Section
6	201(d) (8 U.S.C. 1151(d)) is amended to read as follows:
7	"(d) Worldwide Level of Employment-based
8	Immigrants.—
9	"(1) In general.—
10	"(A) Worldwide Level.—For a fiscal
11	year after fiscal year 2015, the worldwide level
12	of employment-based immigrants under this
13	subsection is equal to the sum of—
14	"(i) 140,000; and
15	"(ii) the number computed under
16	paragraph (2).
17	"(B) FISCAL YEAR 2015.—For fiscal year
18	2015, the worldwide level of employment-based
19	immigrants under this subsection is equal to
20	the sum of—
21	"(i) 140,000;
22	"(ii) the number computed under
23	paragraph (2); and
24	"(iii) the number computed under
25	paragraph (3).

1	"(2) Previous fiscal year.—The number
2	computed under this paragraph for a fiscal year is
3	the difference, if any, between the maximum number
4	of visas which may be issued under section 203(a)
5	(relating to family-sponsored immigrants) during the
6	previous fiscal year and the number of visas issued
7	under that section during that year.
8	"(3) Unused visas.—The number computed
9	under this paragraph is the difference, if any, be-
10	tween—
11	"(A) the sum of the worldwide levels estab-
12	lished under paragraph (1), as in effect on the
13	day before the date of the enactment of the
14	Border Security, Economic Opportunity, and
15	Immigration Modernization Act, for fiscal years
16	1992 through and including 2013; and
17	"(B) the number of visas actually issued
18	under section 203(b) during such fiscal years.".
19	(b) Family-sponsored Immigrants.—Section
20	201(c) (8 U.S.C. 1151(c)) is amended to read as follows:
21	"(c) Worldwide Level of Family-sponsored Im-
22	MIGRANTS.—
23	"(1) In general.—
24	"(A) Worldwide Level.—Subject to
25	subparagraph (C), for each fiscal year after fis-

1	cal year 2015, the worldwide level of family-
2	sponsored immigrants under this subsection for
3	a fiscal year is equal to the sum of—
4	"(i) 480,000 minus the number com-
5	puted under paragraph (2); and
6	"(ii) the number computed under
7	paragraph (3).
8	"(B) FISCAL YEAR 2015.—Subject to sub-
9	paragraph (C), for fiscal year 2015, the world-
10	wide level of family-sponsored immigrants
11	under this subsection is equal to the sum of—
12	"(i) 480,000 minus the number com-
13	puted under paragraph (2);
14	"(ii) the number computed under
15	paragraph (3); and
16	"(iii) the number computed under
17	paragraph (4).
18	"(C) LIMITATION.—The number computed
19	under subparagraph (A)(i) or (B)(i) may not be
20	less than 226,000, except that beginning on the
21	date that is 18 months after the date of the en-
22	actment of the Border Security, Economic Op-
23	portunity, and Immigration Modernization Act,
24	the number computed under subparagraph
25	(A)(i) or (B)(i) may not be less than 161,000.

1	"(2) Immediate relatives.—The number
2	computed under this paragraph for a fiscal year is
3	the number of aliens described in subparagraph (A)
4	or (B) of subsection (b)(2) who were issued immi-
5	grant visas, or who otherwise acquired the status of
6	an alien lawfully admitted to the United States for
7	permanent residence, in the previous fiscal year.
8	"(3) Previous fiscal year.—The number
9	computed under this paragraph for a fiscal year is
10	the difference, if any, between the maximum number
11	of visas which may be issued under section 203(b)
12	(relating to employment-based immigrants) during
13	the previous fiscal year and the number of visas
14	issued under that section during that year.
15	"(4) Unused visas.—The number computed
16	under this paragraph is the difference, if any, be-
17	tween—
18	"(A) the sum of the worldwide levels estab-
19	lished under paragraph (1) for fiscal years
20	1992 through and including 2013; and
21	"(B) the number of visas actually issued
22	under section 203(a) during such fiscal years.".
23	(c) Effective Date.—The amendments made by

this section shall take effect on the first day of the first

1	fiscal year beginning after the date of the enactment of
2	this Act.
3	SEC. 2305. RECLASSIFICATION OF SPOUSES AND MINOR
4	CHILDREN OF LAWFUL PERMANENT RESI-
5	DENTS AS IMMEDIATE RELATIVES.
6	(a) Immediate Relatives.—Section 201(b)(2) (8
7	U.S.C. $1151(b)(2)$) is amended to read as follows:
8	"(2)(A) Aliens who are immediate relatives.
9	"(B) In this paragraph, the term 'immediate
10	relative' means—
11	"(i) a child, spouse, or parent of a citizen
12	of the United States, except that in the case of
13	such a parent such citizen shall be at least 21
14	years of age;
15	"(ii) a child or spouse of an alien lawfully
16	admitted for permanent residence;
17	"(iii) a child or spouse of an alien de-
18	scribed in clause (i), who is accompanying or
19	following to join the alien;
20	"(iv) a child or spouse of an alien de-
21	scribed in clause (ii), who is accompanying or
22	following to join the alien;
23	"(v) an alien admitted under section
24	211(a) on the basis of a prior issuance of a visa

to the alien's accompanying parent who is an immediate relative; and

"(vi) an alien born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(C) If an alien who was the spouse or child of a citizen of the United States or of an alien lawfully admitted for permanent residence and was not legally separated from the citizen or lawful permanent resident at the time of the citizen's or lawful permanent resident's death files a petition under section 204(a)(1)(B), the alien spouse (and each child of the alien) shall remain, for purposes of this paragraph, an immediate relative during the period beginning on the date of the citizen's or permanent resident's death and ending on the date on which the alien spouse remarries.

"(D) An alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) shall remain, for purposes of this paragraph, an immediate relative if the United States citizen or lawful permanent resident spouse or parent loses United States citizenship on account of the abuse.".

24 (b) Allocation of Immigrant Visas.—Section

25 203(a) (8 U.S.C. 1153(a)) is amended—

1	(1) in paragraph (1), by striking "23,400," and
2	inserting "20 percent of the worldwide level of fam-
3	ily-sponsored immigrants under section 201(c)";
4	(2) by striking paragraph (2) and inserting the
5	following:
6	"(2) Unmarried sons and unmarried
7	DAUGHTERS OF PERMANENT RESIDENT ALIENS.—
8	Qualified immigrants who are the unmarried sons or
9	unmarried daughters (but are not the children) of
10	an alien lawfully admitted for permanent residence
11	shall be allocated visas in a number not to exceed 20
12	percent of the worldwide level of family-sponsored
13	immigrants under section 201(c), plus any visas not
14	required for the class specified in paragraph (1).";
15	(3) in paragraph (3)—
16	(A) by striking "23,400," and inserting
17	"20 percent of the worldwide level of family-
18	sponsored immigrants under section 201(c)";
19	and
20	(B) by striking "classes specified in para-
21	graphs (1) and (2)." and inserting "class speci-
22	fied in paragraph (2)."; and
23	(4) in paragraph (4)—
24	(A) by striking "65,000," and inserting
25	"40 percent of the worldwide level of family-

1	sponsored immigrants under section 201(c)";
2	and
3	(B) by striking "classes specified in para-
4	graphs (1) through (3)." and inserting "class
5	specified in paragraph (3).".
6	(c) Termination of Registration.—Section
7	203(g) (8 U.S.C. $1153(g)$) is amended to read as follows:
8	"(g) Lists.—
9	"(1) In general.—For purposes of carrying
10	out the orderly administration of this title, the Sec-
11	retary of State may make reasonable estimates of
12	the anticipated numbers of immigrant visas to be
13	issued during any quarter of any fiscal year within
14	each of the categories under subsections (a), (b),
15	and (c) and may rely upon such estimates in author-
16	izing the issuance of visas.
17	"(2) Termination of registration.—
18	"(A) Information dissemination.—Not
19	later than 180 days after the date of the enact-
20	ment of the Border Security, Economic Oppor-
21	tunity, and Immigration Modernization Act, the
22	Secretary of Homeland Security and the Sec-
23	retary of State shall adopt a plan to broadly
24	disseminate information to the public regarding
25	termination of registration procedures described

in subparagraphs (B) and (C), including procedures for notifying the Department of Homeland Security and the Department of State of any change of address on the part of a petitioner or a beneficiary of an immigrant visa petition.

- "(B) TERMINATION FOR FAILURE TO ADJUST.—The Secretary of Homeland Security shall terminate the registration of any alien who has evidenced an intention to acquire lawful permanent residence under section 245 and who fails to apply to adjust status within 1 year following notification to the alien of the availability of an immigrant visa.
- "(C) TERMINATION FOR FAILURE TO APPLY.—The Secretary of State shall terminate the registration of any alien not described in subparagraph (B) who fails to apply for an immigrant visa within 1 year following notification to the alien of the availability of such visa.
- "(3) REINSTATEMENT.—The registration of any alien that was terminated under paragraph (2) shall be reinstated if, within 2 years following the date of notification of the availability of such visa,

1	the alien demonstrates that such failure to apply
2	was due to good cause.".
3	(d) Technical and Conforming Amendments.—
4	(1) Definitions.—Section 101(a)(15)(K)(ii)
5	(8 U.S.C. 1101(a)(15)(K)(ii)) is amended by strik-
6	ing "section 201(b)(2)(A)(i)" and inserting "section
7	201(b)(2) (other than clause (v) or (vi) of subpara-
8	graph (B))".
9	(2) PER COUNTRY LEVEL.—Section
10	202(a)(1)(A) (8 U.S.C. $1152(a)(1)(A)$) is amended
11	by striking "section 201(b)(2)(A)(i)" and inserting
12	"section 201(b)(2) (other than clause (v) or (vi) of
13	subparagraph (B))".
14	(3) Rules for determining whether cer-
15	TAIN ALIENS ARE IMMEDIATE RELATIVES.—Section
16	201(f) (8 U.S.C. 1151(f)) is amended—
17	(A) in paragraph (1), by striking "para-
18	graphs (2) and (3)," and inserting "paragraph
19	(2),";
20	(B) by striking paragraph (2);
21	(C) by redesignating paragraphs (3) and
22	(4) as paragraphs (2) and (3), respectively; and
23	(D) in paragraph (3), as redesignated by
24	subparagraph (C), by striking "through (3)"
25	and inserting "and (2)".

1	(4) Numerical limitation to any single
2	FOREIGN STATE.—Section 202(a)(4) (8 U.S.C.
3	1152(a)(4)) is amended—
4	(A) by striking subparagraphs (A) and
5	(B);
6	(B) by redesignating subparagraphs (C)
7	and (D) as subparagraphs (A) and (B), respec-
8	tively; and
9	(C) in subparagraph (A), as redesignated
10	by clause (ii), by striking "section
11	203(a)(2)(B)" and inserting "section
12	203(a)(2)".
13	(5) Allocation of immigrant visas.—Sec-
14	tion 203(h) (8 U.S.C. 1153(h)) is amended—
15	(A) in paragraph (1)—
16	(i) in the matter preceding subpara-
17	graph (A), by striking "subsections
18	(a)(2)(A) and (d)" and inserting "sub-
19	section (d)";
20	(ii) in subparagraph (A), by striking
21	"becomes available for such alien (or, in
22	the case of subsection (d), the date on
23	which an immigrant visa number became
24	available for the alien's parent)," and in-

1	serting "became available for the alien's
2	parent,"; and
3	(iii) in subparagraph (B), by striking
4	"applicable";
5	(B) by amending paragraph (2) to read as
6	follows:
7	"(2) Petitions described.—The petition de-
8	scribed in this paragraph is a petition filed under
9	section 204 for classification of the alien's parent
10	under subsection (a), (b), or (c)."; and
11	(C) by amending paragraph (3) to read as
12	follows:
13	"(3) Retention of Priority Date.—
14	"(A) Petitions filed for Children.—
15	For a petition originally filed to classify a child
16	under subsection (d), if the age of the alien is
17	determined under paragraph (1) to be 21 years
18	of age or older on the date that a visa number
19	becomes available to the alien's parent who was
20	the principal beneficiary of the petition, then,
21	upon the parent's admission to lawful perma-
22	nent residence in the United States, the petition
23	shall automatically be converted to a petition
24	filed by the parent for classification of the alien
25	under subsection (a)(2) and the petition shall

1	retain the priority date established by the origi-
2	nal petition.
3	"(B) Family and employment-based
4	PETITIONS.—The priority date for any family-
5	or employment-based petition shall be the date
6	of filing of the petition with the Secretary of
7	Homeland Security (or the Secretary of State,
8	if applicable), unless the filing of the petition
9	was preceded by the filing of a labor certifi-
10	cation with the Secretary of Labor, in which
11	case that date shall constitute the priority date.
12	The beneficiary of any petition shall retain his
13	or her earliest priority date based on any peti-
14	tion filed on his or her behalf that was approv-
15	able when filed, regardless of the category of
16	subsequent petitions.".
17	(6) Procedure for granting immigrant
18	STATUS.—
19	(A) Petitioning Procedure.—Section
20	204 (8 U.S.C. 1154) is amended—
21	(i) by striking subsection (a) and in-
22	serting the following:
23	"(a) Petitioning Procedure.—
24	"(1) In general.—(A) Except as provided in
25	subparagraph (H), any citizen of the United States

1	or alien lawfully admitted for permanent residence
2	claiming that an alien is entitled to classification by
3	reason of a relationship described in subparagraph
4	(A) or (B) of section 203(a)(1) or to an immediate
5	relative status under section $201(b)(2)(A)$ may file a
6	petition with the Secretary of Homeland Security for
7	such classification.
8	"(B) An alien spouse or alien child described in
9	section 201(b)(2)(C) may file a petition with the
10	Secretary under this paragraph for classification of
11	the alien (and the alien's children) under such sec-
12	tion.
13	"(C)(i) An alien who is described in clause (ii)
14	may file a petition with the Secretary under this
15	subparagraph for classification of the alien (and any
16	child of the alien) if the alien demonstrates to the
17	Secretary that—
18	"(I) the marriage or the intent to marry
19	the citizen of the United States or lawful per-
20	manent resident was entered into in good faith
21	by the alien; and
22	"(II) during the marriage or relationship

intended by the alien to be legally a marriage,

the alien or a child of the alien has been bat-

tered or has been the subject of extreme cruelty

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1	perpetrated by the alien's spouse or intended
2	spouse.
3	"(ii) For purposes of clause (i), an alien de-
4	scribed in this clause is an alien—
5	"(I)(aa) who is the spouse of a citizen of
6	the United States or lawful permanent resident;
7	"(bb) who believed that he or she had mar-
8	ried a citizen of the United States or lawful
9	permanent resident and with whom a marriage
10	ceremony was actually performed and who oth-
11	erwise meets any applicable requirements under
12	this Act to establish the existence of and bona
13	fides of a marriage, but whose marriage is not
14	legitimate solely because of the bigamy of such
15	citizen of the United States or lawful perma-
16	nent resident; or
17	"(cc) who was a bona fide spouse of a cit-
18	izen of the United States or a lawful permanent
19	resident within the past 2 years and—
20	"(AA) whose spouse died within the
21	past 2 years;
22	"(BB) whose spouse renounced citi-
23	zenship status or renounced or lost status
24	as a lawful permanent resident within the

1	past 2 years related to an incident of do-
2	mestic violence; or
3	"(CC) who demonstrates a connection
4	between the legal termination of the mar-
5	riage within the past 2 years and battering
6	or extreme cruelty by a spouse who is a
7	citizen of the United States or a lawful
8	permanent resident spouse;
9	"(II) who is a person of good moral char-
10	acter;
11	"(III) who is eligible to be classified as an
12	immediate relative under section 201(b)(2)(A)
13	or who would have been so classified but for the
14	bigamy of the citizen of the United States that
15	the alien intended to marry; and
16	"(IV) who has resided with the alien's
17	spouse or intended spouse.
18	"(D) An alien who is the child of a citizen or
19	lawful permanent resident of the United States, or
20	who was a child of a United States citizen or lawful
21	permanent resident parent who within the past 2
22	years lost or renounced citizenship status related to
23	an incident of domestic violence, and who is a person
24	of good moral character, who is eligible to be classi-
25	fied as an immediate relative under section

1	201(b)(2)(A), and who resides, or has resided in the
2	past, with the citizen or lawful permanent resident
3	parent may file a petition with the Secretary of
4	Homeland Security under this paragraph for classi-
5	fication of the alien (and any child of the alien)
6	under such section if the alien demonstrates to the
7	Secretary that the alien has been battered by or has
8	been the subject of extreme cruelty perpetrated by
9	the alien's citizen or lawful permanent resident par-
10	ent. For purposes of this subparagraph, residence
11	includes any period of visitation.
12	"(E) An alien who—
13	"(i) is the spouse, intended spouse, or child
14	living abroad of a citizen or lawful permanent
15	resident who—
16	"(I) is an employee of the United
17	States Government;
18	"(II) is a member of the uniformed
19	services (as defined in section 101(a) of
20	title 10, United States Code); or
21	"(III) has subjected the alien or the
22	alien's child to battery or extreme cruelty
23	in the United States; and
24	"(ii) is eligible to file a petition under sub-
25	paragraph (C) or (D),

- shall file such petition with the Secretary of Homeland Security under the procedures that apply to self-petitioners under subparagraph (C) or (D), as applicable.
- "(F) For the purposes of any petition filed 5 6 under subparagraph (C) (D), the or7 denaturalization, loss or renunciation of citizenship 8 or lawful permanent resident status, death of the 9 abuser, divorce, or changes to the abuser's citizen-10 ship or lawful permanent resident status after filing 11 of the petition shall not adversely affect the approval 12 of the petition, and for approved petitions shall not 13 preclude the classification of the eligible self-peti-14 tioning spouse or child as an immediate relative or 15 affect the alien's ability to adjust status under sub-16 sections (a) and (c) of section 245 or obtain status 17 as a lawful permanent resident based on the ap-18 proved self-petition under such clauses.
 - "(G) An alien may file a petition with the Secretary of Homeland Security under this paragraph for classification of the alien under section 201(b)(2)(A) if the alien—
- 23 "(i) is the parent of a citizen of the United 24 States or was a parent of a citizen of the 25 United States who, within the past 2 years, lost

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1	or renounced citizenship status related to an in-
2	cident of domestic violence or died;
3	"(ii) is a person of good moral character;
4	"(iii) is eligible to be classified as an im-
5	mediate relative under section 201(b)(2)(A);
6	"(iv) resides, or has resided, with the cit-
7	izen daughter or son; and
8	"(v) demonstrates that the alien has been
9	battered or subject to extreme cruelty by the
10	citizen daughter or son.
11	"(H)(i) Subparagraph (A) shall not apply to a
12	citizen of the United States who has been convicted
13	of a specified offense against a minor, unless the
14	Secretary of Homeland Security, in the Secretary's
15	sole and unreviewable discretion, determines that the
16	citizen poses no risk to the alien with respect to
17	whom a petition described in subparagraph (A) is
18	filed.
19	"(ii) For purposes of clause (i), the term 'speci-
20	fied offense against a minor' has the meaning given
21	such term in section 111 of the Adam Walsh Child
22	Protection and Safety Act of 2006 (42 U.S.C.
23	16911).
24	"(2) Determination of good moral char-
25	ACTER.—Notwithstanding section 101(f), an act or

conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Secretary of Homeland Security from finding the petitioner to be of good moral character under subparagraph (C) or (D) of paragraph (1), if the Secretary finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty.

"(3) Preference status.—(A)(i) Any child who attains 21 years of age who has filed a petition under paragraph (1)(D) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under paragraph (1)(D). No new petition shall be required to be filed.

"(ii) Any individual described in clause (i) is eligible for deferred action and work authorization.

- 1 "(iii) Any derivative child who attains 21 years 2 of age who is included in a petition described in sub-3 paragraph (B) that was filed or approved before the 4 date on which the child attained 21 years of age 5 shall be considered (if the child has not been admit-6 ted or approved for lawful permanent residence by 7 the date the child attained 21 years of age) a VAWA 8 self-petitioner with the same priority date as that as-9 signed to the petitioner in any petition described in 10 subparagraph (B). No new petition shall be required 11 to be filed.
 - "(iv) Any individual described in clause (iii) and any derivative child of a petitioner described in subparagraph (B) is eligible for deferred action and work authorization.
 - "(B) The petition referred to in subparagraph (A)(iii) is a petition filed by an alien under subparagraph (C) or (D) of paragraph (1) in which the child is included as a derivative beneficiary.
 - "(C) Nothing in the amendments made by the Child Status Protection Act (Public Law 107–208; 116 Stat. 927) shall be construed to limit or deny any right or benefit provided under this paragraph.
- 24 "(D) Any alien who benefits from this para-25 graph may adjust status in accordance with sub-

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sections (a) and (c) of section 245 as an alien having an approved petition for classification under subparagraph (C) or (D) of paragraph (1).

"(E) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under paragraph (1)(D) as of the minute before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such paragraph as of such day if a petition is filed for the status described in such paragraph before the individual attains 25 years of age and the individual shows that the abuse was at least 1 central reason for the filing delay. Subparagraphs (A) through (D) shall apply to an individual described in this subparagraph in the same manner as an individual filing a petition under paragraph (1)(D).

"(4) CLASSIFICATION AS ALIEN WITH EXTRAORDINARY ABILITY.—Any alien desiring to be classified under subparagraph (I), (J), (K), (L), or (M) of section 201(b)(1) or section 203(b)(1)(A), or any person on behalf of such an alien, may file a petition with the Secretary of Homeland Security for such classification.

- 1 "(5) Classification as employment-based 2 IMMIGRANT.—Any employer desiring and intending 3 to employ within the United States an alien entitled 4 to classification under paragraph (1)(B), (1)(C), (2), 5 or (3) of section 203(b) may file a petition with the 6 Secretary of Homeland Security for such classifica-7 tion.
 - "(6) CLASSIFICATION ASSPECIAL IMMI-GRANT.—(A) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Secretary of Homeland Security for such classification.
 - "(B) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.
 - "(7) Classification as immigrant inves-TOR.—Any alien desiring to be classified under paragraph (5) or (6) of section 203(b) may file a petition with the Secretary of Homeland Security for such classification.

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- "(8) DIVERSITY VISA.—(A) Any alien desiring 1 2 to be provided an immigrant visa under section 3 203(c) may file a petition at the place and time de-4 termined by the Secretary of State by regulation. 5 Only 1 such petition may be filed by an alien with 6 respect to any petitioning period established. If more 7 than 1 petition is submitted all such petitions sub-8 mitted for such period by the alien shall be voided.
 - "(B)(i) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.
 - "(ii) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.
 - "(iii) The Secretary of State shall prescribe such regulations as may be necessary to carry out this subparagraph.
 - "(C) A petition under this paragraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

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1	"(D) Each petition to compete for consideration
2	for a visa under section 203(c) shall be accompanied
3	by a fee equal to \$30. All amounts collected under
4	this subparagraph shall be deposited into the Treas-
5	ury as miscellaneous receipts.
6	"(9) Consideration of credible evi-
7	DENCE.—In acting on petitions filed under subpara-
8	graph (C) or (D) of paragraph (1), or in making de-
9	terminations under paragraphs (2) and (3), the Sec-
10	retary of Homeland Security shall consider any cred-
11	ible evidence relevant to the petition. The determina-
12	tion of what evidence is credible and the weight to
13	be given that evidence shall be within the sole discre-
14	tion of the Secretary.
15	"(10) Work authorization.—(A) Upon the
16	approval of a petition as a VAWA self-petitioner, the
17	alien—
18	"(i) is eligible for work authorization; and
19	"(ii) may be provided an 'employment au-
20	thorized' endorsement or appropriate work per-
21	mit incidental to such approval.
22	"(B) Notwithstanding any provision of this Act
23	restricting eligibility for employment in the United

States, the Secretary of Homeland Security shall

grant employment authorization to an alien who has

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1	filed an application for status as a VAWA self-peti-
2	tioner on the date that is the earlier of—
3	"(i) the date on which the alien's applica-
4	tion for such status is approved; or
5	"(ii) a date determined by the Secretary
6	that is not later than 180 days after the date
7	on which the alien filed the application.
8	"(11) Limitation.—Notwithstanding para-
9	graphs (1) through (10), an individual who was a
10	VAWA petitioner or who had the status of a non-
11	immigrant under subparagraph (T) or (U) of section
12	101(a)(15) may not file a petition for classification
13	under this section or section 214 to classify any per-
14	son who committed the battery or extreme cruelty or
15	trafficking against the individual (or the individual's
16	child), which established the individual's (or individ-
17	ual's child's) eligibility as a VAWA petitioner or for
18	such nonimmigrant status.";
19	(ii) in subsection (c)(1), by striking
20	"or preference status"; and
21	(iii) in subsection (h), by striking "or
22	a petition filed under subsection
23	(a)(1)(B)(ii)".
24	(B) Conforming amendments.—The
25	Act (8 U.S.C. 1101 et seq.) is amended—

1	(i) in section 101(a)—
2	(I) in paragraph (15)(K), by
3	striking " $204(a)(1)(A)(viii)(I)$ " each
4	place such term appears and inserting
5	"204(a)(1)(H)(i)";
6	(II) in paragraph (50), by strik-
7	ing "204(a)(1)(A)(iii)(II)(aa)(BB),
8	204(a)(1)(B)(ii)(II)(aa)(BB)," and in-
9	serting " $204(a)(1)(C)(ii)(I)(bb)$ or";
10	and
11	(III) in paragraph (51)—
12	(aa) in subparagraph (A),
13	by striking " $204(a)(1)(A)$ " and
14	inserting "204(a)(1)";
15	(bb) by striking subpara-
16	graph (B); and
17	(cc) by redesignating sub-
18	paragraphs (C), (D), (E), (F),
19	and (G) as subparagraphs (B),
20	(C), (D) , (E) , and (F) , respec-
21	tively;
22	(ii) in section 212(a)(4)(C)(i)—
23	(I) in subclause (I), by striking
24	"clause (ii), (iii), or (iv) of section
25	204(a)(1)(A), or" and inserting "sub-

1	paragraph (B), (C), or (D) of section
2	204(a)(1);";
3	(II) by striking subclause (II);
4	and
5	(III) by redesignating subclause
6	(III) as subclause (II);
7	(iii) in section $216(c)(4)(D)$, by strik-
8	ing " $204(a)(1)(A)(iii)(II)(aa)(BB)$ " and
9	inserting " $204(a)(1)(C)(ii)(I)(bb)$ "; and
10	(iv) in section $240(c)(7)(C)(iv)(I)$, by
11	striking "clause (iii) or (iv) of section
12	204(a)(1)(A), clause (ii) or (iii) of section
13	204(a)(1)(B)," and inserting "subpara-
14	graph (C) or (D) of section 204(a)(1),".
15	(7) EXCLUDABLE ALIENS.—Section
16	212(d)(12)(B) (8 U.S.C. 1182(d)(12)(B)) is amend-
17	ed by striking "section 201(b)(2)(A)" and inserting
18	"section 201(b)(2) (other than subparagraph
19	(B)(vi))".
20	(8) Admission of nonimmigrants.—Section
21	214(r)(3)(A) (8 U.S.C. $1184(r)(3)(A)$) is amended
22	by striking "section 201(b)(2)(A)(i)." and inserting
23	"section 201(b)(2) (other than clause (v) or (vi) of
24	subpara@raph (B)).".

1	(9) Refugee Crisis in Iraq act of 2007.—
2	Section 1243(a)(4) of the Refugee Crisis in Iraq Act
3	of 2007 (8 U.S.C. 1157 note) is amended by strik-
4	ing "section 201(b)(2)(A)(i)" and inserting "section
5	201(b)(2) (other than clause (v) or (vi) of subpara-
6	graph (B))".
7	(10) Processing of VISA applications.—
8	Section 233 of the Department of State Authoriza-
9	tion Act, Fiscal Year 2003 (8 U.S.C. 1201 note) is
10	amended by striking "section 201(b)(2)(A)(i)" and
11	inserting "section 201(b)(2) (other than clause (v)
12	or (vi) of subparagraph (B))".
13	(11) Adjustment of Status.—Section 245(a)
14	(8 U.S.C. 1255(a)) is amended to read as follows:
15	(a)(1) The status of an alien who was inspected and
16	admitted or paroled into the United States or the status
17	of any other alien having an approved petition for classi-
18	fication as a VAWA self-petitioner may be adjusted by the
19	Attorney General or the Secretary of Homeland Security,
20	in the Attorney General's or the Secretary's discretion and
21	under such regulations as the Attorney General or Sec-
22	retary may prescribe, to that of an alien lawfully admitted
23	for permanent residence (regardless of whether the alien
24	has already been admitted for permanent residence) if—

1	"(A) the alien makes an application for such
2	adjustment;
3	"(B) the alien is eligible to receive an immi-
4	grant visa and is admissible to the United States for
5	permanent residence; and
6	"(C) subject to paragraph (2), an immigrant
7	visa is immediately available to the alien at the time
8	the alien's application is filed.
9	"(2)(A) An application that is based on a petition ap-
10	proved or approvable under subparagraph (A) or (B) of
11	section 204(a)(1) may be filed without regard to the limi-
12	tation set forth in paragraph (1)(C).
13	"(B) An application for adjustment filed for an alien
14	under this paragraph may not be approved until such time
15	as an immigrant visa becomes available for the alien.".
16	(e) Effective Date.—The amendments made by
17	this section shall take effect on the date of the enactment
18	of this Act.
19	SEC. 2306. NUMERICAL LIMITATIONS ON INDIVIDUAL FOR-
20	EIGN STATES.
21	(a) Numerical Limitation to Any Single For-
22	EIGN STATE.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is
23	amended—
24	(1) in the paragraph heading, by striking "AND
25	EMPLOYMENT-BASED'':

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(2) by striking "(3), (4), and (5)," and insert-
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 2
        ing "(3) and (4),";
 3
             (3) by striking "subsections (a) and (b) of sec-
        tion 203" and inserting "section 203(a)";
 4
             (4) by striking "7" and inserting "15"; and
 5
             (5) by striking "such subsections" and inserting
 6
 7
        "such section".
 8
         (b) Conforming Amendments.—Section 202 (8)
    U.S.C. 1152) is amended—
10
             (1) in subsection (a)—
11
                  (A) in paragraph (3), by striking "both
12
             subsections (a) and (b) of section 203" and in-
13
             serting "section 203(a)"; and
14
                  (B) by striking paragraph (5); and
15
             (2) by amending subsection (e) to read as fol-
16
        lows:
17
        "(e) Special Rules for Countries at Ceiling.—
   If it is determined that the total number of immigrant
    visas made available under section 203(a) to natives of
19
    any single foreign state or dependent area will exceed the
21
    numerical limitation specified in subsection (a)(2) in any
22
    fiscal year, in determining the allotment of immigrant visa
23
    numbers to natives under section 203(a), visa numbers
    with respect to natives of that state or area shall be allo-
    cated (to the extent practicable and otherwise consistent
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- 1 with this section and section 203) in a manner so that,
- 2 except as provided in subsection (a)(4), the proportion of
- 3 the visa numbers made available under each of paragraphs
- 4 (1) through (4) of section 203(a) is equal to the ratio of
- 5 the total number of visas made available under the respec-
- 6 tive paragraph to the total number of visas made available
- 7 under section 203(a).".
- 8 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
- 9 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
- 10 note) is amended—
- 11 (1) in subsection (a), by striking "subsection
- (e))" and inserting "subsection (d))"; and
- 13 (2) by striking subsection (d) and redesignating
- subsection (e) as subsection (d).
- 15 (d) Effective Date.—The amendments made by
- 16 this section shall take effect 1 year after the date of the
- 17 enactment of this Act.
- 18 SEC. 2307. ALLOCATION OF IMMIGRANT VISAS.
- 19 (a) Preference Allocation for Family-spon-
- 20 SORED IMMIGRANTS.—
- 21 (1) IN GENERAL.—Section 203(a) (8 U.S.C.
- 22 1153(a)), as amended by section 2305(b), is further
- amended to read as follows:
- 24 "(a) Preference Allocation for Family-spon-
- 25 SORED IMMIGRANTS.—Aliens subject to the worldwide

1	level specified in section 201(c) for family-sponsored immi-
2	grants shall be allotted visas as follows:
3	"(1) Sons and daughters of citizens.—
4	Qualified immigrants who are—
5	"(A) the unmarried sons or unmarried
6	daughters but not the children of citizens of the
7	United States shall be allocated visas in a num-
8	ber not to exceed 35 percent of the worldwide
9	level authorized in section 201(c), plus the sum
10	of—
11	"(i) the number of visas not required
12	for the class specified in paragraph (2) for
13	the current fiscal year; and
14	"(ii) the number of visas not required
15	for the class specified in subparagraph (B);
16	or
17	"(B) the married sons or married daugh-
18	ters of citizens of the United States who are 31
19	years of age or younger at the time of filing a
20	petition under section 204 shall be allocated
21	visas in a number not to exceed 25 percent of
22	the worldwide level authorized in section 201(c),
23	plus the number of any visas not required for
24	the class specified in subparagraph (A) current
25	fiscal year.

"(2) Sons and daughters of Permanent RESIDENTS.—Qualified immigrants who are the un-married sons or unmarried daughters of aliens ad-mitted for permanent residence shall be allocated visas in a number not to exceed 40 percent of the worldwide level authorized in section 201(c), plus any visas not required for the class specified in paragraph (1)(A).".

(2) Conforming amendments.—

- (A) PROCEDURE FOR GRANTING IMMI-GRANT STATUS.—Section 204(f)(1) (8 U.S.C. 1154(f)(1)) is amended by striking "section 201(b), 203(a)(1), or 203(a)(3)," and inserting "section 201(b) or subparagraph (A) or (B) of section 203(a)(1)".
- (B) AUTOMATIC CONVERSION.—For the purposes of any petition pending or approved based on a relationship described—
 - (i) in subparagraph (A) of section 203(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(1)), as amended by paragraph (1), and notwithstanding the age of the alien, such a petition shall be deemed reclassified as a petition based on a relationship described in subpara-

1	graph (B) of such section 203(a)(1) upon
2	the marriage of such alien; or
3	(ii) in subparagraph (B) of such sec-
4	tion 203(a)(1), such a petition shall be
5	deemed reclassified as a petition based on
6	a relationship described in subparagraph
7	(A) of such section 203(a)(1) upon the
8	legal termination of marriage or death of
9	such alien's spouse.
10	(3) Effective date.—The amendments made
11	by this subsection shall take effect on the first day
12	of the first fiscal year that begins at least 18 months
13	following the date of the enactment of this Act.
14	(b) Preference Allocation for Employment-
15	Based Immigrants.—
16	(1) In general.—Section 201(b)(1) (8 U.S.C.
17	1151(b)(1)), as amended by sections 2103(c) and
18	2212(d), is further amended by adding at the end
19	the following:
20	"(H) Derivative beneficiaries as described
21	in section 203(d) of employment-based immi-
22	grants under section 203(b).
23	"(I) Aliens with extraordinary ability in
24	the sciences, arts, education, business, or ath-
25	letics which has been demonstrated by sus-

1	tained national or international acclaim, if, with
2	respect to any such alien—
3	"(i) the achievements of such alien
4	have been recognized in the field through
5	extensive documentation;
6	"(ii) such alien seeks to enter the
7	United States to continue work in the area
8	of extraordinary ability; and
9	"(iii) the entry of such alien into the
10	United States will substantially benefit
11	prospectively the United States.
12	"(J) Aliens who are outstanding professors
13	and researchers if, with respect to any such
14	alien—
15	"(i) the alien is recognized inter-
16	nationally as outstanding in a specific aca-
17	demic area;
18	"(ii) the alien has at least 3 years of
19	experience in teaching or research in the
20	academic area; and
21	"(iii) the alien seeks to enter the
22	United States—
23	"(I) to be employed in a tenured
24	position (or tenure-track position)
25	within a not for profit university or

1	institution of higher education to
2	teach in the academic area;
3	"(II) for employment in a com-
4	parable position with a not for profit
5	university or institution of higher edu-
6	cation, or a governmental research or-
7	ganization, to conduct research in the
8	area; or
9	"(III) for employment in a com-
10	parable position to conduct research
11	in the area with a department, divi-
12	sion, or institute of a private em-
13	ployer, if the department, division, or
14	institute employs at least 3 persons
15	full-time in research activities and has
16	achieved documented accomplishments
17	in an academic field.
18	"(K) Aliens who are multinational execu-
19	tives and managers if, with respect to any such
20	alien—
21	"(i) in the 3 years preceding the time
22	of the alien's application for classification
23	and admission into the United States
24	under this subparagraph, the alien has
25	been employed for at least 1 year by a firm

1	or corporation or other legal entity or an
2	affiliate or subsidiary thereof; and
3	"(ii) the alien seeks to enter the
4	United States in order to continue to
5	render services to the same employer or to
6	a subsidiary or affiliate thereof in a capac-
7	ity that is managerial or executive.
8	"(L) Aliens who have earned a doctorate
9	degree from an institution of higher education
10	in the United States or the foreign equivalent.
11	"(M) Alien physicians who have completed
12	the foreign residency requirements under sec-
13	tion 212(e) or obtained a waiver of these re-
14	quirements or an exemption requested by an in-
15	terested State agency or by an interested Fed-
16	eral agency under section 214(l), including
17	those alien physicians who completed such serv-
18	ice before the date of the enactment of the Bor-
19	der Security, Economic Opportunity, and Immi-
20	gration Modernization Act.
21	"(N) Advanced degrees in a stem
22	FIELD.—
23	"(i) In General.—An immigrant
24	who—

1	"(I) has earned a master's or
2	higher degree in a field of science,
3	technology, engineering, or mathe-
4	matics included in the Department of
5	Education's Classification of Instruc-
6	tional Programs taxonomy within the
7	summary groups of computer and in-
8	formation sciences and support serv-
9	ices, engineering, mathematics and
10	statistics, biological and biomedical
11	sciences, and physical sciences, from a
12	United States institution of higher
13	education;
14	"(II) has an offer of employment
15	from a United States employer in a
16	field related to such degree; and
17	"(III) earned the qualifying grad-
18	uate degree during the 5-year period
19	immediately before the initial filing
20	date of the petition under which the
21	nonimmigrant is a beneficiary.
22	"(ii) Definition.—In this subpara-
23	graph, the term 'United States institution
24	of higher education' means an institution
25	that—

1	"(I) is described in section
2	101(a) of the Higher Education Act
3	of 1965 (20 U.S.C. 1001(a)) or is a
4	proprietary institution of higher edu-
5	cation (as defined in section 102(b) of
6	such Act (20 U.S.C. 1002(b)));
7	"(II) was classified by the Car-
8	negie Foundation for the Advance-
9	ment of Teaching on January 1,
10	2012, as a doctorate-granting univer-
11	sity with a very high or high level of
12	research activity or classified by the
13	National Science Foundation after the
14	date of enactment of this subpara-
15	graph, pursuant to an application by
16	the institution, as having equivalent
17	research activity to those institutions
18	that had been classified by the Car-
19	negie Foundation as being doctorate-
20	granting universities with a very high
21	or high level of research activity; and
22	"(III) is accredited by an accred-
23	iting body that is itself accredited ei-
24	ther by the Department of Education

1	or by the Council for Higher Edu-
2	cation Accreditation.".
3	(2) Exception from Labor Certification
4	REQUIREMENT FOR STEM IMMIGRANTS.—Section
5	212(a)(5)(D) (8 U.S.C. $1182(a)(5)(D)$) is amended
6	to read as follows:
7	"(D) Application of grounds.—
8	"(i) In general.—Except as pro-
9	vided in clause (ii), the grounds for inad-
10	missibility of aliens under subparagraphs
11	(A) and (B) shall apply to immigrants
12	seeking admission or adjustment of status
13	under paragraph (2) or (3) of section
14	203(b).
15	"(ii) Special rule for stem immi-
16	GRANTS.—The grounds for inadmissibility
17	of aliens under subparagraph (A) shall not
18	apply to an immigrant seeking admission
19	or adjustment of status under section
20	203(b)(2)(B) or $201(b)(1)(N)$.".
21	(c) Technical and Conforming Amendments.—
22	(1) Treatment of derivative family mem-
23	BERS.—Section 203(d) (8 U.S.C. 1153(d)) is
24	amended to read as follows:

1	"(d) Treatment of Family Members.—If accom-
2	panying or following to join a spouse or parent issued a
3	visa under subsection (a), (b), or (c), subparagraph (I)
4	(J), (K), (L), or (M) of section 201(b)(1), or section
5	201(b)(2), a spouse or child (as defined in subparagraph
6	(A), (B), (C), (D), or (E) of section 101(b)(1)) shall be
7	entitled to the same immigrant status and the same order
8	of consideration provided in the respective provision.".
9	(2) Aliens who are priority workers of
10	MEMBERS OF THE PROFESSIONS HOLDING AD-
11	VANCED DEGREES.—Section 203(b) (8 U.S.C
12	1153(b)) is amended—
13	(A) in the matter preceding paragraph (1)
14	by striking "Aliens" and inserting "Other than
15	aliens described in paragraph (1) or (2)(B)
16	aliens";
17	(B) in paragraph (1), by striking the mat-
18	ter preceding subparagraph (A) and inserting
19	"Aliens described in any of the following sub-
20	paragraphs may be admitted to the United
21	States without respect to the worldwide level
22	specified in section 201(d)"; and
23	(C) by amending paragraph (2) to read as
24	follows:

1	"(2) Aliens who are members of profes-
2	SIONS HOLDING ADVANCED DEGREES OR PROSPEC-
3	TIVE EMPLOYEES OF NATIONAL SECURITY FACILI-
4	TIES.—
5	"(A) In general.—Visas shall be made
6	available, in a number not to exceed 40 percent
7	of the worldwide level authorized in section
8	201(d), plus any visas not required for the
9	classes specified in paragraph (5) to qualified
10	immigrants who are either of the following:
11	"(i) Members of the professions hold-
12	ing advanced degrees or their equivalent
13	whose services in the sciences, arts, profes-
14	sions, or business are sought by an em-
15	ployer in the United States, including alien
16	physicians holding foreign medical degrees
17	that have been deemed sufficient for ac-
18	ceptance by an accredited United States
19	medical residency or fellowship program.
20	"(ii) Prospective employees, in a re-
21	search capacity, of Federal national secu-
22	rity, science, and technology laboratories,
23	centers, and agencies, if such immigrants
24	have been lawfully present in the United

States for two years prior to employment

25

1	(unless the Secretary of Homeland Secu-
2	rity determines, including upon request of
3	the prospective laboratory, center, or agen-
4	cy, that exceptional circumstances exist
5	justifying waiver of the presence require-
6	ment).
7	"(B) Waiver of job offer.—
8	"(i) National interest waiver.—
9	Subject to clause (ii), the Secretary of
10	Homeland Security may, if the Secretary
11	deems it to be in the national interest,
12	waive the requirements of subparagraph
13	(A) that an alien's services in the sciences,
14	arts, professions, or business be sought by
15	an employer in the United States.
16	"(ii) Physicians working in short-
17	AGE AREAS OR VETERANS FACILITIES.—
18	"(I) In General.—The Sec-
19	retary shall grant a national interest
20	waiver pursuant to clause (i) on be-
21	half of any alien physician with re-
22	spect to whom a petition for pref-
23	erence classification has been filed
24	under subparagraph (A) if—

1 "(aa) the alien physicis	an
2 agrees to work on a full- tir	ne
3 basis practicing primary can	re,
4 specialty medicine, or a combin	ıa-
5 tion thereof, in an area or are	as
6 designated by the Secretary	of
7 Health and Human Services	as
8 having a shortage of health ca	re
9 professionals or at a health ca	re
10 facility under the jurisdiction	of
11 the Secretary of Veterans Affair	rs;
12 or	
13 "(bb) the alien physician	is
pursuing such waiver based up	on
service at a facility or facility	ies
that serve patients who reside	in
a geographic area or areas de	es-
ignated by the Secretary	of
19 Health and Human Services	as
20 having a shortage of health ca	re
professionals (without regard	to
22 whether such facility or facility	ies
are located within such an are	a)
and a Federal agency or a local	al,
25 county, regional, or State depart	rt-

1	ment of public health determines
2	that the alien physician's work at
3	such facility was or will be in the
4	public interest.
5	"(II) Prohibition.—
6	"(aa) No permanent resi-
7	dent visa may be issued to an
8	alien physician described in sub-
9	clause (I) by the Secretary of
10	State under section 204(b), and
11	the Secretary of Homeland Secu-
12	rity may not adjust the status of
13	such an alien physician from that
14	of a nonimmigrant alien to that
15	of a permanent resident alien
16	under section 245, until such
17	time as the alien has worked full
18	time as a physician for an aggre-
19	gate of 5 years (not including the
20	time served in the status of an
21	alien described in section
22	101(a)(15)(J), in an area or
23	areas designated by the Secretary
24	of Health and Human Services

as having a shortage of health

25

1	care professionals or at a health
2	care facility under the jurisdic-
3	tion of the Secretary of Veterans
4	Affairs, or at a facility or facili-
5	ties meeting the requirements of
6	subclause (I)(bb).
7	"(bb) The 5-year service re-
8	quirement of item (aa) shall be
9	counted from the date the alien
10	physician begins work in the
11	shortage area in any legal status
12	and not the date an immigrant
13	visa petition is filed or approved.
14	Such service shall be aggregated
15	without regard to when such
16	service began and without regard
17	to whether such service began
18	during or in conjunction with a
19	course of graduate medical edu-
20	cation.
21	"(cc) An alien physician
22	shall not be required to submit
23	an employment contract with a
24	term exceeding the balance of the
25	5-year commitment yet to be

1	served, nor an employment con-
2	tract dated within a minimum
3	time period prior to filing of a
4	visa petition pursuant to this
5	subsection.
6	"(dd) An alien physician
7	shall not be required to file addi-
8	tional immigrant visa petitions
9	upon a change of work location
10	from the location approved in the
11	original national interest immi-
12	grant petition.
13	"(III) STATUTORY CONSTRUC-
14	TION.—Nothing in this subparagraph
15	may be construed to prevent the filing
16	of a petition with the Secretary of
17	Homeland Security for classification
18	under section 204(a), by an alien phy-
19	sician described in subclause (I) prior
20	to the date by which such alien physi-
21	cian has completed the service de-
22	scribed in subclause (II) or in section
23	214(l).
24	"(C) GUIDANCE AND RULES.—The Sec-
25	retary may prescribe such policy guidance and

rules as the Secretary considers appropriate for purposes of subparagraph (A) to ensure national security and promote the interests and competitiveness of the United States. Such rules shall include a definition of the term 'Federal national security, science, and technology laboratories, centers, and agencies' for purposes of clause (ii) of subparagraph (A), which shall include the following:

"(i) The national security, science, and technology laboratories, centers, and agencies of the Department of Defense, the Department of Energy, the Department of Homeland Security, the elements of the intelligence community (as that term is defined in section 4(3) of the National Security Act of 1947), and any other department or agency of the Federal Government that conducts or funds research and development in the essential national interest.

"(ii) Federally funded research and development centers (FFRDCs) that are primarily supported by a department or agency of the Federal Government specified in clause (i).".

1	(3) Skilled workers, professionals, and
2	OTHER WORKERS.—
3	(A) In General.—Section 203(b)(3)(A)
4	(8 U.S.C. 1153(b)(3)(A)) is amended by strik-
5	ing "in a number not to exceed 28.6 percent of
6	such worldwide level, plus any visas not re-
7	quired for the classes specified in paragraphs
8	(1) and (2)," and inserting "in a number not
9	to exceed 40 percent of the worldwide level au-
10	thorized in section 201(d), plus any visas not
11	required for the class specified in paragraph
12	(2),".
13	(B) Medical license requirements.—
14	Section $214(i)(2)(A)$ (8 U.S.C. $1184(i)(2)(A)$)
15	is amended by adding at the end "including in
16	the case of a medical doctor, the licensure re-
17	quired to practice medicine in the United
18	States,".
19	(C) Repeal of limitation on other
20	WORKERS.—Section 203(b)(3) (8 U.S.C.
21	1153(b)(3)) is amended—
22	(i) by striking subparagraph (B); and
23	(ii) redesignated subparagraph (C) as
24	subparagraph (B).

- (4) CERTAIN SPECIAL IMMIGRANTS.—Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking "in a number not to exceed 7.1 percent of such worldwide level," and inserting "in a number not to exceed 10 percent of the worldwide level authorized in section 201(d), plus any visas not required for the class specified in paragraph (3),".
- 8 (5)EMPLOYMENT CREATION.—Section 9 203(b)(5)(A) (8 U.S.C. 1153(b)(5)(A)) is amended 10 by striking "in a number not to exceed 7.1 percent 11 of such worldwide level," and inserting "in a number 12 not to exceed 10 percent of the worldwide level au-13 thorized in section 201(d), plus any visas not re-14 quired for the class specified in paragraph (4),".
- 15 (d) Naturalization of Employees of Certain
- 16 NATIONAL SECURITY FACILITIES WITHOUT REGARD TO
- 17 Residency Requirements.—Section 316 (8 U.S.C.
- 18 1427) is amended by adding at the end the following:
- 19 "(g)(1) Any person who, while an alien or a noncit-
- 20 izen national of the United States, has been employed in
- 21 a research capacity at a Federal national security, science,
- 22 and technology laboratory, center, or agency (as defined
- 23 pursuant to section 203(b)(2)(C)) for a period or periods
- 24 aggregating one year or more may, in the discretion of

- 1 the Secretary, be naturalized without regard to the resi-
- 2 dence requirements of this section if the person—
- 3 "(A) has complied with all requirements as de-
- 4 termined by the Secretary of Homeland Security, the
- 5 Secretary of Defense, the Secretary of Energy, or
- 6 the head of a petitioning department or agency of
- 7 the Federal Government, including contractual re-
- 8 quirements to maintain employment in a research
- 9 capacity with a Federal national security, science,
- and technology laboratory, center, or agency for a
- period not to exceed five years; and
- 12 "(B) has favorably completed and adjudicated a
- background investigation at the appropriate level,
- from the employing department or agency of the
- 15 Federal Government within the last five years.
- 16 "(2) The number of aliens or noncitizen nationals
- 17 naturalized in any fiscal year under this subsection shall
- 18 not exceed a number as defined by the Secretary of Home-
- 19 land Security, in consultation with the head of the peti-
- 20 tioning department or agency of the Federal Govern-
- 21 ment.".

1	SEC. 2308. INCLUSION OF COMMUNITIES ADVERSELY AF-
2	FECTED BY A RECOMMENDATION OF THE DE-
3	FENSE BASE CLOSURE AND REALIGNMENT
4	COMMISSION AS TARGETED EMPLOYMENT
5	AREAS.
6	(a) In General.—Section 203(b)(5)(B)(ii) (8
7	U.S.C. 1153(b)(5)(B)(ii)) is amended by inserting ", any
8	community adversely affected by a recommendation by the
9	Defense Base Closure and Realignment Commission,"
10	after "rural area".
11	(b) REGULATIONS.—The Secretary, in consultation
12	with the Secretary of Defense, shall implement the amend-
13	ment made by subsection (a) through appropriate regula-
14	tions.
15	SEC. 2309. V NONIMMIGRANT VISAS.
16	(a) Nonimmigrant Eligibility.—Subparagraph
17	(V) of section $101(a)(15)$ (8 U.S.C. $1101(a)(15)$) is
18	amended to read as follows:
19	" $(V)(i)$ subject to section $214(q)(1)$ and
20	section 212(a)(4), an alien who is the bene-
21	ficiary of an approved petition under section
22	203(a) as—
23	"(I) the unmarried son or unmarried
24	daughter of a citizen of the United States;

1	"(II) the unmarried son or unmarried
2	daughter of an alien lawfully admitted for
3	permanent residence; or
4	"(III) the married son or married
5	daughter of a citizen of the United States
6	and who is 31 years of age or younger; or
7	"(ii) subject to section 214(q)(2), an alien
8	who is—
9	"(I) the sibling of a citizen of the
10	United States; or
11	"(II) the married son or married
12	daughter of a citizen of the United States
13	and who is older than 31 years of age;".
14	(b) Employment and Period of Admission of
15	NONIMMIGRANTS DESCRIBED IN SECTION
16	101(A)(15)(V).—Section $214(q)$ (8 U.S.C. $1184(q)$) is
17	amended to read as follows:
18	"(q) Nonimmigrants Described in Section
19	101(A)(15)(V).—
20	"(1) CERTAIN SONS AND DAUGHTERS.—
21	"(A) Employment authorization.—The
22	Secretary shall—
23	"(i) authorize a nonimmigrant admit-
24	ted pursuant to section 101(a)(15)(V)(i) to
25	engage in employment in the United States

1	during the period of such nonimmigrant's
2	authorized admission; and
3	"(ii) provide such a nonimmigrant
4	with an 'employment authorized' endorse-
5	ment or other appropriate document signi-
6	fying authorization of employment.
7	"(B) TERMINATION OF ADMISSION.—The
8	period of authorized admission for such a non-
9	immigrant shall terminate 30 days after the
10	date on which—
11	"(i) such nonimmigrant's application
12	for an immigrant visa pursuant to the ap-
13	proval of a petition under subsection (a) or
14	(c) of section 203 is denied; or
15	"(ii) such nonimmigrant's application
16	for adjustment of status under section 245
17	pursuant to the approval of such a petition
18	is denied.
19	"(2) Siblings and sons and daughters of
20	CITIZENS.—
21	"(A) Employment authorization.—The
22	Secretary may not authorize a nonimmigrant
23	admitted pursuant to section 101(a)(15)(V)(ii)
24	to engage in employment in the United States.

1	"(B) Period of Admission.—The period
2	of authorized admission as such a non-
3	immigrant may not exceed 60 days per fiscal
4	year.
5	"(C) Treatment of Period of Admis-
6	SION.—An alien admitted under section
7	101(a)(15)(V) may not receive an allocation of
8	points pursuant to section 203(c) for residence
9	in the United States while admitted as such a
10	nonimmigrant.".
11	(c) Public Benefits.—A noncitizen who is lawfully
12	present in the United States pursuant to section
13	101(a)(15)(V) of the Immigration and Nationality Act (8
14	U.S.C. 1101(a)(15)(V)) is not eligible for any means-test-
15	ed public benefits (as such term is defined and imple-
16	mented in section 403 of the Personal Responsibility and
17	Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
18	1613)). A noncitizen admitted under this section—
19	(1) is not entitled to the premium assistance
20	tax credit authorized under section 36B of the Inter-
21	nal Revenue Code of 1986 for his or her coverage;
22	(2) shall be subject to the rules applicable to in-
23	dividuals not lawfully present that are set forth in
24	subsection (e) of such section;

1	(3) shall be subject to the rules applicable to in-
2	dividuals not lawfully present that are set forth in
3	section 1402(e) of the Patient Protection and Af-
4	fordable Care Act (42 U.S.C. 18071(e)); and
5	(4) shall be subject to the rules applicable to in-
6	dividuals not lawfully present set forth in section
7	5000A(d)(3) of the Internal Revenue Code of 1986.
8	(d) Effective Date.—The amendments made by
9	this section shall take effect on the first day of the first
10	fiscal year beginning after the date of the enactment of
11	this Act.
12	SEC. 2310. FIANCÉE AND FIANCÉ CHILD STATUS PROTEC-
13	TION.
	(a) Definition.—Section 101(a)(15)(K) (8 U.S.C.
14	
1415	1101(a)(15)(K)), as amended by section
	1101(a)(15)(K)), as amended by section $2305(d)(6)(B)(i)(I)$, is further amended—
15	•
15 16	2305(d)(6)(B)(i)(I), is further amended—
15 16 17	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alien
15 16 17 18	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alien lawfully admitted for permanent residence" after
15 16 17 18	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alient lawfully admitted for permanent residence" after "204(a)(1)(H)(i))";
115 116 117 118 119 220	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alien lawfully admitted for permanent residence" after "204(a)(1)(H)(i))"; (2) in clause (ii), by inserting "or of an alien
15 16 17 18 19 20 21	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alient lawfully admitted for permanent residence" after "204(a)(1)(H)(i))"; (2) in clause (ii), by inserting "or of an alient lawfully admitted for permanent residence" after lawfully admitted for permanent residence" after lawfully admitted for permanent residence"
15 16 17 18 19 20 21	2305(d)(6)(B)(i)(I), is further amended— (1) in clause (i), by inserting "or of an alient lawfully admitted for permanent residence" after "204(a)(1)(H)(i))"; (2) in clause (ii), by inserting "or of an alient lawfully admitted for permanent residence" after "204(a)(1)(H)(i))"; and

- 1 the date on which the fiancé, fiancée, or immigrant
- 2 visa petition is filed with the Secretary of Homeland
- 3 Security to classify the alien's parent as the fiancée
- 4 or fiancé of a United States citizen or of an alien
- 5 lawfully admitted for permanent residence (in the
- 6 case of an alien parent described in clause (i)) or as
- 7 the spouse of a citizen of the United States or of an
- 8 alien lawfully admitted to permanent residence
- 9 under section 201(b)(2)(A) (in the case of an alien
- parent described in clause (ii));".
- 11 (b) Adjustment of Status Authorized.—Section
- 12 214(d) (8 U.S.C. 1184(d)) is amended—
- 13 (1) by redesignating paragraphs (2) and (3) as
- paragraphs (3) and (4), respectively; and
- 15 (2) in paragraph (1), by striking "In the event"
- and all that follows through the end; and
- 17 (3) by inserting after paragraph (1) the fol-
- lowing:
- 19 "(2)(A) If an alien does not marry the petitioner
- 20 under paragraph (1) within 3 months after the alien and
- 21 the alien's children are admitted into the United States,
- 22 the visa previously issued under the provisions of section
- 23 1101(a)(15)(K)(i) shall automatically expire and such
- 24 alien and children shall be required to depart from the
- 25 United States. If such aliens fail to depart from the

- 1 United States, they shall be placed in proceedings in ac-
- 2 cordance with sections 240 and 241.
- 3 "(B) Subject to subparagraphs (C) and (D), if an
- 4 alien marries the petitioner described in section
- 5 101(a)(15)(K)(i) within 90 days after the alien is admit-
- 6 ted into the United States, the Secretary or the Attorney
- 7 General, subject to the provisions of section 245(d), may
- 8 adjust the status of the alien, and any children accom-
- 9 panying or following to join the alien, to that of an alien
- 10 lawfully admitted for permanent residence on a conditional
- 11 basis under section 216 if the alien and any such children
- 12 apply for such adjustment and are not determined to be
- 13 inadmissible to the United States. If the alien does not
- 14 apply for such adjustment within 6 months after the mar-
- 15 riage, the visa issued under the provisions of section
- 16 1101(a)(15)(K) shall automatically expire.
- 17 "(C) Paragraphs (5) and (7)(A) of section 212(a)
- 18 shall not apply to an alien who is eligible to apply for ad-
- 19 justment of the alien's status to an alien lawfully admitted
- 20 for permanent residence under this section.
- 21 "(D) An alien eligible for a waiver of inadmissibility
- 22 as otherwise authorized under this Act or the Border Se-
- 23 curity, Economic Opportunity, and Immigration Mod-
- 24 ernization Act shall be permitted to apply for adjustment

- 1 of the alien's status to that of an alien lawfully admitted
- 2 for permanent residence under this section.".
- 3 (c) AGE DETERMINATION.—Section 245(d) (8 U.S.C.
- 4 1255(d)) is amended—
- 5 (1) by striking "The Attorney General" and in-
- 6 serting "(1) The Secretary of Homeland Security";
- 7 (2) in paragraph (1), as redesignated, by strik-
- 8 ing "Attorney General" and inserting "Secretary";
- 9 and
- 10 (3) by adding at the end the following:
- 11 "(2) A determination of the age of an alien admitted
- 12 to the United States under section 101(a)(15)(K)(iii) shall
- 13 be made, for purposes of adjustment to the status of an
- 14 alien lawfully admitted for permanent residence on a con-
- 15 ditional basis under section 216, using the age of the alien
- 16 on the date on which the fiancé, fiancée, or immigrant visa
- 17 petition was filed with the Secretary of Homeland Security
- 18 to classify the alien's parent as the fiancée or fiancé of
- 19 a United States citizen or of an alien lawfully admitted
- 20 to permanent residence (in the case of an alien parent ad-
- 21 mitted to the United States under section
- 22 101(a)(15)(K)(i)) or as the spouse of a United States cit-
- 23 izen or of an alien lawfully admitted to permanent resi-
- 24 dence under section 201(b)(2)(A) (in the case of an alien

parent admitted to the United States under section 2 101(a)(15)(K)(ii)).". 3 (d) APPLICABILITY.—The amendments made by this section shall apply to all petitions or applications described 5 in such amendments that are pending as of the date of the enactment of the Border Security, Economic Oppor-6 tunity, and Immigration Modernization Act. 8 (e) Technical and Conforming Amendments.— 9 (1) Definitions.—Section 101(a)(15)(K) (8) 10 U.S.C. 1101(a)(15)(K), as amended by subsection 11 (a), is further amended— 12 (A) in clause (ii), by striking "section 13 201(b)(2)(A)(i)" "section and inserting 14 201(b)(2)"; and 15 (B) in clause (iii), by striking "section "section 16 201(b)(2)(A)(i)" and inserting 17 201(b)(2)". 18 (2) Age determination.—Paragraph (2) of 19 section 245(d) (8 U.S.C. 1255(d)), as added by sub-20 section (c), is amended by striking section "201(b)(2)(A)(i)" and inserting "201(b)(2)". 21 22 (3) Effective date.—The amendments made 23 by this subsection shall take effect on the first day 24 of the first fiscal year beginning no earlier than 1 25 year after the date of the enactment of this Act.

1	SEC. 2311. EQUAL TREATMENT FOR ALL STEPCHILDREN.
2	Section $101(b)(1)(B)$ (8 U.S.C. $1101(b)(1)(B)$) is
3	amended by striking "eighteen years" and inserting "21
4	years".
5	SEC. 2312. MODIFICATION OF ADOPTION AGE REQUIRE-
6	MENTS.
7	Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amend-
8	ed—
9	(1) in subparagraph (E)—
10	(A) by striking "(E)(i)" and inserting
11	"(E)";
12	(B) by striking "under the age of sixteen
13	years" and inserting "younger than 18 years of
14	age, or a child adopted when 18 years of age
15	or older if the adopting parent or parents initi-
16	ated the legal adoption process before the child
17	reached 18 years of age";
18	(C) by striking "; or" and inserting a
19	semicolon; and
20	(D) by striking clause (ii);
21	(2) in subparagraph (F)—
22	(A) by striking "(F)(i)" and inserting
23	"(F)";
24	(B) by striking "sixteen" and inserting
25	"18";

1	(C) by striking "Attorney General" and in-
2	serting "Secretary of Homeland Security"; and
3	(D) by striking clause (ii); and
4	(3) in subparagraph (G), by striking "16" and
5	inserting "18".
6	SEC. 2313. RELIEF FOR ORPHANS, WIDOWS, AND WID-
7	OWERS.
8	(a) In General.—
9	(1) Special rule for orphans and
10	SPOUSES.—In applying clauses (iii) and (iv) of sec-
11	tion 201(b)(2)(B) of the Immigration and Nation-
12	ality Act, as added by section 2305(a) of this Act,
13	to an alien whose citizen or lawful permanent resi-
14	dent relative died before the date of the enactment
15	of this Act, the alien relative may file the classifica-
16	tion petition under section 204(a)(1)(A)(ii) of the
17	Immigration and Nationality Act not later than 2
18	years after the date of the enactment of this Act.
19	(2) ELIGIBILITY FOR PAROLE.—If an alien was
20	excluded, deported, removed, or departed voluntarily
21	before the date of the enactment of this Act based
22	solely upon the alien's lack of classification as an
23	immediate relative (as defined in section
24	201(b)(2)(B)(iv) of the Immigration and Nationality

1	Act, as amended by section 2305(a) of this Act) due
2	to the death of such citizen or resident—
3	(A) such alien shall be eligible for parole
4	into the United States pursuant to the Sec-
5	retary's discretionary authority under section
6	212(d)(5) of such Act (8 U.S.C. 1182(d)(5));
7	and
8	(B) such alien's application for adjustment
9	of status shall be considered by the Secretary
10	notwithstanding section 212(a)(9) of such Act
11	(8 U.S.C. 1182(a)(9)).
12	(3) Eligibility for parole.—If an alien de-
13	scribed in section 204(l) of the Immigration and Na-
14	tionality Act (8 U.S.C. 1154(l)) was excluded, de-
15	ported, removed, or departed voluntarily before the
16	date of the enactment of this Act—
17	(A) such alien shall be eligible for parole
18	into the United States pursuant to the Sec-
19	retary's discretionary authority under section
20	212(d)(5) of such Act (8 U.S.C. $1182(d)(5)$);
21	and
22	(B) such alien's application for adjustment
23	of status shall be considered by the Secretary
24	notwithstanding section 212(a)(9) of such Act
25	(8 U.S.C. 1182(a)(9)).

1	(b) Processing of Immigrant Visas and Deriva-
2	TIVE PETITIONS.—
3	(1) In General.—Section 204(b) (8 U.S.C.
4	1154(b)) is amended—
5	(A) by striking "After an investigation"
6	and inserting "(1) After an investigation"; and
7	(B) by adding at the end the following:
8	"(2)(A) Any alien described in subparagraph (B)
9	whose qualifying relative died before the completion of im-
10	migrant visa processing may have an immigrant visa ap-
11	plication adjudicated as if such death had not occurred.
12	An immigrant visa issued before the death of the quali-
13	fying relative shall remain valid after such death.
14	"(B) An alien described in this subparagraph is an
15	alien who—
16	"(i) is an immediate relative (as described in
17	section $201(b)(2)(B)$;
18	"(ii) is a family-sponsored immigrant (as de-
19	scribed in subsection (a) or (d) of section 203);
20	"(iii) is a derivative beneficiary of an employ-
21	ment-based immigrant under section 203(b) (as de-
22	scribed in section 203(d)); or
23	"(iv) is the spouse or child of a refugee (as de-
24	scribed in section $207(c)(2)$) or an asylee (as de-
25	scribed in section 208(b)(3)).".

(2) Transition period.—

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- (A) In General.—Notwithstanding a denial or revocation of an application for an immigrant visa for an alien due to the death of the qualifying relative before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee.
- 9 (B) INAPPLICABILITY OF TO BARS 10 ENTRY.—Notwithstanding section 212(a)(9) of 11 the Immigration and Nationality Act (8 U.S.C. 12 1182(a)(9)), an alien's application for an immi-13 grant visa shall be considered if the alien was 14 excluded, deported, removed, or departed volun-15 tarily before the date of the enactment of this 16 Act.
- 17 (c) Naturalization.—Section 319(a) (8 U.S.C.
- 18 1430(a)) is amended by striking "States," and inserting
- 19 "States (or if the spouse is deceased, the spouse was a
- 20 citizen of the United States),".
- 21 (d) Waivers of Inadmissibility.—Section 212 (8
- 22 U.S.C. 1182) is amended by adding at the end the fol-
- 23 lowing:
- 24 "(v) Continued Waiver Eligibility for Widows,
- 25 WIDOWERS, AND ORPHANS.—In the case of an alien who

- would have been statutorily eligible for any waiver of inadmissibility under this Act but for the death of a qualifying 3 relative, the eligibility of such alien shall be preserved as 4 if the death had not occurred and the death of the qualifying relative shall be the functional equivalent of hardship for purposes of any waiver of inadmissibility which re-7 quires a showing of hardship.". 8 (e) Surviving Relative Consideration for Cer-TAIN PETITIONS AND APPLICATIONS.—Section 204(1)(1) (8 U.S.C. 1154(l)(1)) is amended— 10 (1) by striking "who resided in the United 11 12 States at the time of the death of the qualifying rel-13 ative and who continues to reside in the United 14 States"; and 15 (2) by striking "related applications," and in-
- 15 (2) by striking "related applications," and in-16 serting "related applications (including affidavits of 17 support),".
- 18 (f) Family-sponsored Immigrants.—Section 19 212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)), as amended 20 by section 2305(d)(6)(B)(iii), is further amended by add-21 ing at the end the following:
- 22 "(III) the status as a surviving relative under 204(l); or".

1	SEC. 2314. DISCRETIONARY AUTHORITY WITH RESPECT TO
2	REMOVAL, DEPORTATION, OR INADMIS-
3	SIBILITY OF CITIZEN AND RESIDENT IMME-
4	DIATE FAMILY MEMBERS.
5	(a) Applications for Relief From Removal.—
6	Section 240(c)(4) (8 U.S.C. 1229a(c)(4)) is amended by
7	adding at the end the following:
8	"(D) Judicial discretion.—In the case
9	of an alien subject to removal, deportation, or
10	inadmissibility, the immigration judge may ex-
11	ercise discretion to decline to order the alien re-
12	movable, deportable, or inadmissible from the
13	United States and terminate proceedings if the
14	judge determines that such removal, deporta-
15	tion, or inadmissibility is against the public in-
16	terest or would result in hardship to the alien's
17	United States citizen or lawful permanent resi-
18	dent parent, spouse, or child, or the judge de-
19	termines the alien is prima facie eligible for
20	naturalization except that this subparagraph
21	shall not apply to an alien whom the judge de-
22	termines—
23	"(i) is inadmissible or deportable
24	under—

1	"(I) subparagraph (B), (C),
2	(D)(ii), (E), (H), (I), or (J) of section
3	212(a)(2);
4	"(II) section $212(a)(3)$;
5	"(III) subparagraph (A), (C), or
6	(D) of section 212(a)(10); or
7	"(IV) paragraph (2)(A)(ii),
8	(2)(A)(v), (2)(F), (4), or (6) of sec-
9	tion 237(a); or
10	''(ii) has—
11	"(I) engaged in conduct de-
12	scribed in paragraph (8) or (9) of sec-
13	tion 103 of the Trafficking Victims
14	Protection Act of 2000 (22 U.S.C.
15	7102); or
16	"(II) a felony conviction de-
17	scribed in section 101(a)(43) that
18	would have been classified as an ag-
19	gravated felony at the time of convic-
20	tion.".
21	(b) Secretary's Discretion.—Section 212 (8
22	U.S.C. 1182), as amended by section 2313(d), is further
23	amended by adding at the end the following:
24	"(w) Secretary's Discretion.—In the case of an
25	alien who is inadmissible under this section or deportable

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under section 237, the Secretary of Homeland Security
    may exercise discretion to waive a ground of inadmis-
    sibility or deportability if the Secretary determines that
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    such removal or refusal of admission is against the public
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    interest or would result in hardship to the alien's United
 6
    States citizen or permanent resident parent, spouse, or
 7
    child. This subsection shall not apply to an alien whom
 8
    the Secretary determines—
 9
             "(1) is inadmissible or deportable under—
10
                  "(A) subparagraph (B), (C), (D)(ii), (E),
11
             (H), (I), or (J) of subsection (a)(2);
12
                  "(B) subsection (a)(3);
                  "(C) subparagraph (A), (C), or (D) of sub-
13
14
             section (a)(10);
                  "(D)
15
                         paragraphs
                                       (2)(A)(ii),
                                                   (2)(A)(v),
             (2)(F), or (6) of section 237(a); or
16
17
                  "(E) section 240(c)(4)(D)(ii)(II); or
18
             "(2) has—
19
                  "(A) engaged in conduct described in para-
20
             graph (8) or (9) of section 103 of the Traf-
21
             ficking Victims Protection Act of 2000 (22)
22
             U.S.C. 7102); or
23
                  "(B) a felony conviction described in sec-
24
             tion 101(a)(43) that would have been classified
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1	as an aggravated felony at the time of convic-
2	tion.".
3	(c) Reinstatement of Removal Orders.—Sec-
4	tion 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended by strik-
5	ing the period at the end and inserting ", unless the alien
6	reentered prior to attaining the age of 18 years, or rein-
7	statement of the prior order of removal would not be in
8	the public interest or would result in hardship to the
9	alien's United States citizen or permanent resident parent,
10	spouse, or child.".
11	SEC. 2315. WAIVERS OF INADMISSIBILITY.
12	(a) Aliens Who Entered as Children.—Section
13	212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(iii)) is amended
14	by adding at the end the following:
15	"(VI) ALIENS WHO ENTERED AS
16	CHILDREN.—Clause (i) shall not apply
17	to an alien who is the beneficiary of
18	an approved petition under
19	101(a)(15)(H) and who has earned a
20	baccalaureate or higher degree from a
21	United States institution of higher
22	education (as defined in section
23	101(a) of the Higher Education Act
24	of 1965 (20 U.S.C. 1001(a)), and had
25	not yet reached the age of 16 years at

1	the time of initial entry to the United
2	States.".
3	(b) ALIENS UNLAWFULLY PRESENT.—Section
4	212(a)(9)(B)(v) (8 U.S.C. 1181(a)(9)(B)(v) is amended—
5	(1) by striking "spouse or son or daughter" and
6	inserting "spouse, son, daughter, or parent";
7	(2) by striking "extreme"; and
8	(3) by inserting ", child," after "lawfully resi-
9	dent spouse".
10	(c) Previous Immigration Violations.—Section
11	212(a)(9)(C)(i) (8 U.S.C. 1182(a)(9)(C)(i)) is amended
12	by adding ", other than an alien described in clause (iii)
13	or (iv) of subparagraph (B)," after "Any alien".
14	(d) False Claims.—
15	(1) Inadmissibility.—
16	(A) In General.—Section 212(a)(6)(C)
17	(8 U.S.C. $1182(a)(6)(C)$) is amended to read as
18	follows:
19	"(C) Misrepresentation.—
20	"(i) In general.—Any alien who, by
21	fraud or willfully misrepresenting a mate-
22	rial fact, seeks to procure (or within the
23	last 3 years has sought to procure or has
24	procured) a visa, other documentation, or
25	admission into the United States or other

1	benefit provided under this Act is inadmis-
2	sible.
3	"(ii) Falsely claiming citizen-
4	SHIP.—
5	"(I) Inadmissibility.—Subject
6	to subclause (II), any alien who know-
7	ingly misrepresents himself or herself
8	to be a citizen of the United States
9	for any purpose or benefit under this
10	chapter (including section 274A) or
11	any other Federal or State law is in-
12	admissible.
13	"(II) Special rule for chil-
14	DREN.—An alien shall not be inadmis-
15	sible under this clause if the misrepre-
16	sentation described in subclause (I)
17	was made by the alien when the
18	alien—
19	"(aa) was under 18 years of
20	age; or
21	"(bb) otherwise lacked the
22	mental competence to knowingly
23	misrepresent a claim of United
24	States citizenship.

1	"(iii) Waiver.—The Attorney General
2	or the Secretary of Homeland Security
3	may, in the discretion of the Attorney Gen-
4	eral or the Secretary, waive the application
5	of clause (i) or (ii)(I) for an alien, regard-
6	less whether the alien is within or outside
7	the United States, if the Attorney General
8	or the Secretary finds that a determination
9	of inadmissibility to the United States for
10	such alien would—
11	"(I) result in extreme hardship to
12	the alien or to the alien's parent,
13	spouse, son, or daughter who is a cit-
14	izen of the United States or an alien
15	lawfully admitted for permanent resi-
16	dence; or
17	"(II) in the case of a VAWA self-
18	petitioner, result in significant hard-
19	ship to the alien or a parent or child
20	of the alien who is a citizen of the
21	United States, an alien lawfully ad-
22	mitted for permanent residence, or a
23	qualified alien (as defined in section
24	431 of the Personal Responsibility

1	and Work Opportunity Reconciliation
2	Act of 1996 (8 U.S.C. 1641(b))).
3	"(iv) Limitation on review.—No
4	court shall have jurisdiction to review a de-
5	cision or action of the Attorney General or
6	the Secretary regarding a waiver under
7	clause (iii).".
8	(B) Conforming amendment.—Section
9	212 (8 U.S.C. 1182) is amended by striking
10	subsection (i).
11	(2) Deportability.—Section 237(a)(3)(D) (8
12	U.S.C. 1227(a)(3)(D)) is amended to read as fol-
13	lows:
14	"(D) Falsely claiming citizenship.—
15	Any alien described in section 212(a)(6)(C)(ii)
16	is deportable.".
17	SEC. 2316. CONTINUOUS PRESENCE.
18	Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amend-
19	ed to read as follows:
20	"(1) Termination of continuous period.—
21	For purposes of this section, any period of contin-
22	uous residence or continuous physical presence in
23	the United States shall be deemed to end, except in
24	the case of an alien who applies for cancellation of
25	removal under subsection (b)(2), on the date that a

1	notice to appear is filed with the Executive Office
2	for Immigration Review pursuant to section 240.".
3	SEC. 2317. GLOBAL HEALTH CARE COOPERATION.
4	(a) Temporary Absence of Aliens Providing
5	HEALTH CARE IN DEVELOPING COUNTRIES.—
6	(1) In general.—Title III (8 U.S.C. 1401 et
7	seq.) is amended by inserting after section 317 the
8	following:
9	"SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING
10	HEALTH CARE IN DEVELOPING COUNTRIES.
11	"(a) In General.—Notwithstanding any other pro-
12	vision of this Act, the Secretary of Homeland Security
13	shall allow an eligible alien and the spouse or child of such
14	alien to reside in a candidate country during the period
15	that the eligible alien is working as a physician or other
16	health care worker in a candidate country. During such
17	period the eligible alien and such spouse or child shall be
18	considered—
19	"(1) to be physically present and residing in the
20	United States for purposes of naturalization under
21	section 316(a); and
22	"(2) to meet the continuous residency require-
23	ments under section 316(b).
24	"(b) DEFINITIONS—In this section:

1	"(1) Candidate country.—The term 'can-
2	didate country' means a country that the Secretary
3	of State determines to be—
4	"(A) eligible for assistance from the Inter-
5	national Development Association, in which the
6	per capita income of the country is equal to or
7	less than the historical ceiling of the Inter-
8	national Development Association for the appli-
9	cable fiscal year, as defined by the International
10	Bank for Reconstruction and Development;
11	"(B) classified as a lower middle income
12	country in the then most recent edition of the
13	World Development Report for Reconstruction
14	and Development published by the International
15	Bank for Reconstruction and Development and
16	having an income greater than the historical
17	ceiling for International Development Associa-
18	tion eligibility for the applicable fiscal year; or
19	"(C) qualified to be a candidate country
20	due to special circumstances, including natural
21	disasters or public health emergencies.
22	"(2) Eligible Alien.—The term 'eligible
23	alien' means an alien who—
24	"(A) has been lawfully admitted to the
25	United States for permanent residence: and

1	"(B) is a physician or other healthcare
2	worker.
3	"(c) Consultation.—The Secretary of Homeland
4	Security shall consult with the Secretary of State in car-
5	rying out this section.
6	"(d) Publication.—The Secretary of State shall
7	publish—
8	"(1) not later than 180 days after the date of
9	the enactment of the Border Security, Economic Op-
10	portunity, and Immigration Modernization Act, a list
11	of candidate countries;
12	"(2) an updated version of the list required by
13	paragraph (1) not less often than once each year;
14	and
15	"(3) an amendment to the list required by
16	paragraph (1) at the time any country qualifies as
17	a candidate country due to special circumstances
18	under subsection (b)(1)(C).".
19	(2) Rulemaking.—
20	(A) Requirement.—Not later than 180
21	days after the date of the enactment of this
22	Act, the Secretary shall promulgate regulations
23	to carry out the amendments made by this sub-
24	section.

1	(B) Content.—The regulations promul-
2	gated pursuant to subparagraph (A) shall—
3	(i) permit an eligible alien (as defined
4	in section 317A of the Immigration and
5	Nationality Act, as added by subsection
6	(a)) and the spouse or child of the eligible
7	alien to reside in a foreign country to work
8	as a physician or other healthcare worker
9	as described in subsection (a) of such sec-
10	tion 317A for not less than a 12-month pe-
11	riod and not more than a 24-month period,
12	and shall permit the Secretary to extend
13	such period for an additional period not to
14	exceed 12 months, if the Secretary deter-
15	mines that such country has a continuing
16	need for such a physician or other
17	healthcare worker;
18	(ii) provide for the issuance of docu-
19	ments by the Secretary to such eligible
20	alien, and such spouse or child, if appro-
21	priate, to demonstrate that such eligible
22	alien, and such spouse or child, if appro-
23	priate, is authorized to reside in such
24	country under such section 317A; and

1	(iii) provide for an expedited process
2	through which the Secretary shall review
3	applications for such an eligible alien to re-
4	side in a foreign country pursuant to sub-
5	section (a) of such section 317A if the Sec-
6	retary of State determines a country is a
7	candidate country pursuant to subsection
8	(b)(1)(C) of such section 317A.
9	(3) Technical and conforming amend-
10	MENTS.—
11	(A) Definition.—Section
12	101(a)(13)(C)(ii) (8 U.S.C. 1101(a)(13)(C)(ii))
13	is amended by adding "except in the case of an
14	eligible alien, or the spouse or child of such
15	alien, who is authorized to be absent from the
16	United States under section 317A," at the end.
17	(B) Documentary requirements.—Sec-
18	tion 211(b) (8 U.S.C. 1181(b)) is amended by
19	inserting ", including an eligible alien author-
20	ized to reside in a foreign country under section
21	317A and the spouse or child of such eligible
22	alien, if appropriate," after "101(a)(27)(A),".
23	(C) INELIGIBLE ALIENS.—Section
24	212(a)(7)(A)(i)(I) (8 U.S.C.
25	1182(a)(7)(A)(i)(I) is amended by inserting

1	"other than an eligible alien authorized to re-
2	side in a foreign country under section 317A
3	and the spouse or child of such eligible alien, if
4	appropriate," after "Act,".
5	(4) Clerical amendment.—The table of con-
6	tents of such Act is amended by inserting after the
7	item relating to section 317 the following:
	"Sec. 317A. Temporary absence of aliens providing health care in developing countries.".
8	(b) ATTESTATION BY HEALTH CARE WORKERS.—
9	(1) Attestation requirement.—Section
10	212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by add-
11	ing at the end the following:
12	"(E) HEALTH CARE WORKERS WITH
13	OTHER OBLIGATIONS.—
14	"(i) In general.—An alien who
15	seeks to enter the United States for the
16	purpose of performing labor as a physician
17	or other health care worker is inadmissible
18	unless the alien submits to the Secretary of
19	Homeland Security or the Secretary of
20	State, as appropriate, an attestation that
21	the alien is not seeking to enter the United
22	States for such purpose during any period
23	in which the alien has an outstanding obli-
24	gation to the government of the alien's

1	country of origin or the alien's country of
2	residence.
3	"(ii) Obligation defined.—In this
4	subparagraph, the term 'obligation' means
5	an obligation incurred as part of a valid,
6	voluntary individual agreement in which
7	the alien received financial assistance to
8	defray the costs of education or training to
9	qualify as a physician or other health care
10	worker in consideration for a commitment
11	to work as a physician or other health care
12	worker in the alien's country of origin or
13	the alien's country of residence.
14	"(iii) WAIVER.—The Secretary of
15	Homeland Security may waive a finding of
16	inadmissibility under clause (i) if the Sec-
17	retary determines that—
18	"(I) the obligation was incurred
19	by coercion or other improper means;
20	"(II) the alien and the govern-
21	ment of the country to which the alien
22	has an outstanding obligation have
23	reached a valid, voluntary agreement,
24	pursuant to which the alien's obliga-
25	tion has been deemed satisfied, or the

1	alien has shown to the satisfaction of
2	the Secretary that the alien has been
3	unable to reach such an agreement
4	because of coercion or other improper
5	means; or
6	"(III) the obligation should not
7	be enforced due to other extraordinary
8	circumstances, including undue hard-
9	ship that would be suffered by the
10	alien in the absence of a waiver.".
11	(2) Effective date.—The amendment made
12	by paragraph (1) shall take effect on the date that
13	is 180 days after the date of the enactment of this
14	Act.
15	(3) APPLICATION.—Not later than the effective
16	date described in paragraph (2), the Secretary shall
17	begin to carry out subparagraph (E) of section
18	212(a)(5) of the Immigration and Nationality Act
19	as added by paragraph (1), including the require-
20	ment for the attestation and the granting of a waiv-

er described in clause (iii) of such subparagraph (E),

regardless of whether regulations to implement such

subparagraph have been promulgated.

21

22

23

1	SEC. 2318. EXTENSION AND IMPROVEMENT OF THE IRAQI
2	SPECIAL IMMIGRANT VISA PROGRAM.
3	The Refugee Crisis in Iraq Act of 2007 (8 U.S.C.
4	1157 note) is amended—
5	(1) in section 1242, by amending subsection (c)
6	to read as follows:
7	"(c) Improved Application Process.—Not later
8	than 120 days after the date of the enactment of the Bor-
9	der Security, Economic Opportunity, and Immigration
10	Modernization Act, the Secretary of State and the Sec-
11	retary of Homeland Security, in consultation with the Sec-
12	retary of Defense, shall improve the efficiency by which
13	applications for special immigrant visas under section
14	1244(a) are processed so that all steps incidental to the
15	issuance of such visas, including required screenings and
16	background checks, are completed not later than 9 months
17	after the date on which an eligible alien applies for such
18	visa.";
19	(2) in section 1244—
20	(A) in subsection (b)—
21	(i) in paragraph (1)—
22	(I) by amending subparagraph
23	(B) to read as follows:
24	"(B) was or is employed in Iraq on or
25	after March 20, 2003, for not less than 1 year,
26	by, or on behalf of—

1	"(i) the United States Government;
2	"(ii) a media or nongovernmental or-
3	ganization headquartered in the United
4	States; or
5	"(iii) an organization or entity closely
6	associated with the United States mission
7	in Iraq that has received United States
8	Government funding through an official
9	and documented contract, award, grant, or
10	cooperative agreement;";
11	(II) in subparagraph (C), by
12	striking "the United States Govern-
13	ment" and inserting "an entity or or-
14	ganization described in subparagraph
15	(B)"; and
16	(III) in subparagraph (D), by
17	striking by striking "the United
18	States Government." and inserting
19	"such entity or organization."; and
20	(ii) in paragraph (4)—
21	(I) by striking "A recommenda-
22	tion" and inserting the following:
23	"(A) In general.—Except as provided
24	under subparagraph (B), a recommendation":

1	(II) by striking "the United
2	States Government prior" and insert-
3	ing "an entity or organization de-
4	scribed in paragraph (1)(B) prior";
5	and
6	(III) by adding at the end the
7	following:
8	"(B) REVIEW PROCESS FOR DENIAL BY
9	CHIEF OF MISSION.—
10	"(i) In general.—An applicant who
11	has been denied Chief of Mission approval
12	required by subparagraph (A) shall—
13	"(I) receive a written decision;
14	and
15	"(II) be provided 120 days from
16	the date of the decision to request re-
17	opening of the decision to provide ad-
18	ditional information, clarify existing
19	information, or explain any unfavor-
20	able information.
21	"(ii) Senior coordinator.—The
22	Secretary of State shall designate, in the
23	Embassy of the United States in Baghdad,
24	Iraq, a senior coordinator responsible for
25	overseeing the efficiency and integrity of

1	the processing of special immigrant visas
2	under this section, who shall be given—
3	"(I) sufficiently high security
4	clearance to review Chief of Mission
5	denials in cases that appear to have
6	relied upon insufficient or incorrect
7	information; and
8	"(II) responsibility for ensuring
9	that an applicant described in clause
10	(i) receives the information described
11	in clause (i)(I)."; and
12	(B) in subsection (c)(3), by adding at the
13	end the following:
14	"(C) Subsequent fiscal years.—Not-
15	withstanding subparagraphs (A) and (B), and
16	consistent with subsection (b), any unused bal-
17	ance of the total number of principal aliens who
18	may be provided special immigrant status under
19	this section in fiscal years 2008 through 2012
20	may be carried forward and provided through
21	the end of fiscal year 2018."; and
22	(3) in section 1248, by adding at the end the
23	following:
24	"(f) Report on Improvements.—

1	"(1) In General.—Not later than 120 days
2	after the date of the enactment of the Border Secu-
3	rity, Economic Opportunity, and Immigration Mod-
4	ernization Act, the Secretary of State and the Sec-
5	retary of Homeland Security, in consultation with
6	the Secretary of Defense, shall submit a report, with
7	a classified annex, if necessary, to—
8	"(A) the Committee on the Judiciary of
9	the Senate;
10	"(B) the Committee on Foreign Relations
11	of the Senate;
12	"(C) the Committee on the Judiciary of
13	the House of Representatives; and
14	"(D) the Committee on Foreign Affairs of
15	the House of Representatives.
16	"(2) Contents.—The report submitted under
17	paragraph (1) shall describe the implementation of
18	improvements to the processing of applications for
19	special immigrant visas under section 1244(a), in-
20	cluding information relating to—
21	"(A) enhancing existing systems for con-
22	ducting background and security checks of per-
23	sons applying for special immigrant status,
24	which shall—
25	"(i) support immigration security; and

1	"(ii) provide for the orderly processing
2	of such applications without delay;
3	"(B) the financial, security, and personnel
4	considerations and resources necessary to carry
5	out this subtitle;
6	"(C) the number of aliens who have ap-
7	plied for special immigrant visas under section
8	1244 during each month of the preceding fiscal
9	year;
10	"(D) the reasons for the failure to expedi-
11	tiously process any applications that have been
12	pending for longer than 9 months;
13	"(E) the total number of applications that
14	are pending due to the failure—
15	"(i) to receive approval from the Chief
16	of Mission;
17	"(ii) for U.S. Citizenship and Immi-
18	gration Services to complete the adjudica-
19	tion of the Form I-360;
20	"(iii) to conduct a visa interview; or
21	"(iv) to issue the visa to an eligible
22	alien;
23	"(F) the average wait times for an appli-
24	cant at each of the stages described in subpara-
25	graph (E);

1	"(G) the number of denials or rejections at
2	each of the stages described in subparagraph
3	(E); and
4	"(H) a breakdown of reasons for denials at
5	by the Chief of Mission based on the categories
6	already made available to denied special immi-
7	grant visa applicants in the denial letter sent to
8	them by the Chief of Mission.
9	"(g) Public Quarterly Reports.—Not later than
10	120 days after the date of the enactment of the Border
11	Security, Economic Opportunity, and Immigration Mod-
12	ernization Act, and every 3 months thereafter, the Sec-
13	retary of State and the Secretary of Homeland Security,
14	in consultation with the Secretary of Defense, shall pub-
15	lish a report on the website of the Department of State
16	that describes the efficiency improvements made in the
17	process by which applications for special immigrant visas
18	under section 1244(a) are processed, including informa-
19	tion described in subparagraphs (C) through (H) of sub-
20	section $(f)(2)$.".
21	SEC. 2319. EXTENSION AND IMPROVEMENT OF THE AF-
22	GHAN SPECIAL IMMIGRANT VISA PROGRAM.
23	Section 602(b) of the Afghan Allies Protection Act
24	of 2009 (8 U.S.C. 1101 note) is amended—
25	(1) in paragraph (2)—

1	(A) in subparagraph (A)—
2	(i) by amending clause (ii) to read as
3	follows:
4	"(ii) was or is employed in Afghani-
5	stan on or after October 7, 2001, for not
6	less than 1 year, by, or on behalf of—
7	"(I) the United States Govern-
8	ment;
9	"(II) a media or nongovern-
10	mental organization headquartered in
11	the United States; or
12	"(III) an organization or entity
13	closely associated with the United
14	States mission in Afghanistan that
15	has received United States Govern-
16	ment funding through an official and
17	documented contract, award, grant, or
18	cooperative agreement;";
19	(ii) in clause (iii), by striking "the
20	United States Government" and inserting
21	"an entity or organization described in
22	clause (ii)"; and
23	(iii) in clause (iv), by striking by
24	striking "the United States Government."

1	and inserting "such entity or organiza-
2	tion.";
3	(B) by amending subparagraph (B) to read
4	as follows:
5	"(B) Family members.—An alien is de-
6	scribed in this subparagraph if the alien is—
7	"(i) the spouse or minor child of a
8	principal alien described in subparagraph
9	(A) who is accompanying or following to
10	join the principal alien in the United
11	States; or
12	"(ii)(I) the spouse, child, parent, or
13	sibling of a principal alien described in
14	subparagraph (A), whether or not accom-
15	panying or following to join; and
16	(Π) has experienced or is experi-
17	encing an ongoing serious threat as a con-
18	sequence of the qualifying employment of a
19	principal alien described in subparagraph
20	(A)."; and
21	(C) in subparagraph (D)—
22	(i) by striking "A recommendation"
23	and inserting the following:

1	"(i) In general.—Except as pro-
2	vided under clause (ii), a recommenda-
3	tion'';
4	(ii) by striking "the United States
5	Government prior" and inserting "an enti-
6	ty or organization described in paragraph
7	(2)(A)(ii) prior"; and
8	(iii) by adding at the end the fol-
9	lowing:
10	"(ii) Review process for denial
11	BY CHIEF OF MISSION.—
12	"(I) In general.—An applicant
13	who has been denied Chief of Mission
14	approval shall—
15	"(aa) receive a written deci-
16	sion; and
17	"(bb) be provided 120 days
18	from the date of receipt of such
19	opinion to request reconsider-
20	ation of the decision to provide
21	additional information, clarify ex-
22	isting information, or explain any
23	unfavorable information.
24	"(II) Senior coordinator.—
25	The Secretary of State shall des-

1	ignate, in the Embassy of the United
2	States in Kabul, Afghanistan, a senior
3	coordinator responsible for overseeing
4	the efficiency and integrity of the
5	processing of special immigrant visas
6	under this section, who shall be
7	given—
8	"(aa) sufficiently high secu-
9	rity clearance to review Chief of
10	Mission denials in cases that ap-
11	pear to have relied upon insuffi-
12	cient or incorrect information;
13	and
14	"(bb) responsibility for en-
15	suring that an applicant de-
16	scribed in subclause (I) receives
17	the information described in sub-
18	clause (I)(aa).'';
19	(2) in paragraph (3)(C), by amending clause
20	(iii) to read as follows:
21	"(iii) FISCAL YEARS 2014 THROUGH
22	2018.—For each of the fiscal years 2014
23	through 2018, the total number of prin-
24	cipal aliens who may be provided special

1	immigrant status under this section may
2	not exceed the sum of—
3	"(I) 5,000;
4	"(II) the difference between the
5	number of special immigrant visas al-
6	located under this section for fiscal
7	years 2009 through 2013 and the
8	number of such allocated visas that
9	were issued; and
10	"(III) any unused balance of the
11	total number of principal aliens who
12	may be provided special immigrant
13	status in fiscal years 2014 through
14	2018 that have been carried for-
15	ward.";
16	(3) in paragraph (4)—
17	(A) in the heading, by striking "Prohibi-
18	TION ON FEES.—" and inserting "APPLICATION
19	PROCESS.—";
20	(B) by striking "The Secretary" and in-
21	serting the following:
22	"(A) In general.—Not later than 120
23	days after the date of enactment of the Border
24	Security, Economic Opportunity, and Immigra-
25	tion Modernization Act, the Secretary of State

and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall improve the efficiency by which applications for special immigrant visas under paragraph (1) are processed so that all steps incidental to the issuance of such visas, including required screenings and background checks, are completed not later than 6 months after the date on which an eligible alien applies for such visa.

- "(B) Prohibition on fees.—The Secretary"; and
- (4) by adding at the end the following:
- "(12) Report on improvements.—Not later than 120 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall submit to the appropriate committees of Congress a report, with a classified annex, if necessary, that describes the implementation of improvements to the processing of applications for special immigrant visas under this subsection, including information relating to—

1	"(A) enhancing existing systems for con-
2	ducting background and security checks of per-
3	sons applying for special immigrant status,
4	which shall—
5	"(i) support immigration security; and
6	"(ii) provide for the orderly processing
7	of such applications without delay;
8	"(B) the financial, security, and personnel
9	considerations and resources necessary to carry
10	out this section;
11	"(C) the number of aliens who have ap-
12	plied for special immigrant visas under this
13	subsection during each month of the preceding
14	fiscal year;
15	"(D) the reasons for the failure to expedi-
16	tiously process any applications that have been
17	pending for longer than 9 months;
18	"(E) the total number of applications that
19	are pending due to the failure—
20	"(i) to receive approval from the Chief
21	of Mission;
22	"(ii) for U.S. Citizenship and Immi-
23	gration Services to complete the adjudica-
24	tion of the Form I-360;
25	"(iii) to conduct a visa interview; or

1	"(iv) to issue the visa to an eligible
2	alien;
3	"(F) the average wait times for an appli-
4	cant at each of the stages described in subpara-
5	graph (E);
6	"(G) the number of denials or rejections at
7	each of the stages described in subparagraph
8	(E); and
9	"(H) a breakdown of reasons for denials
10	by the Chief of Mission based on the categories
11	already made available to denied special immi-
12	grant visa applicants in the denial letter sent to
13	them by the Chief of Mission.
14	"(13) Public quarterly reports.—Not
15	later than 120 days after the date of the enactment
16	of the Border Security, Economic Opportunity, and
17	Immigration Modernization Act, and every 3 months
18	thereafter, the Secretary of State and the Secretary
19	of Homeland Security, in consultation with the Sec-
20	retary of Defense, shall publish a report on the
21	website of the Department of State that describes
22	the efficiency improvements made in the process by
23	which applications for special immigrant visas under
24	this subsection are processed, including information

1	described in subparagraph (C) through (H) of para-
2	graph (12).".
3	SEC. 2320. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS
4	WORKER PROGRAM.
5	Section 101(a)(27)(C)(ii) (8 U.S.C. 1101
6	(a)(27)(C)(ii)) is amended in subclauses (II) and (III) by
7	striking "before September 30, 2015," both places such
8	term appears.
9	SEC. 2321. SPECIAL IMMIGRANT STATUS FOR CERTAIN SUR-
10	VIVING SPOUSES AND CHILDREN.
11	(a) In General.—Section 101(a)(27) (8 U.S.C.
12	1101(a)(27)) is amended in subparagraph (D)—
13	(1) by inserting "(i)" before "an immigrant
14	who is an employee";
15	(2) by inserting "or" after "grant such sta-
16	tus;"; and
17	(3) by inserting after clause (i), as designated
18	by paragraph (1), the following:
19	"(ii) an immigrant who is the surviving
20	spouse or child of an employee of the United
21	States Government abroad killed in the line of
22	duty, provided that the employee had performed
23	faithful service for a total of 15 years, or more,
24	and that the principal officer of a Foreign Serv-
25	ice establishment (or, in the case of the Amer-

1	ican Institute of Taiwan, the Director thereof)
2	in his or her discretion, recommends the grant-
3	ing of special immigrant status to the spouse or
4	child and the Secretary of State approves such
5	recommendation and finds that it is in the na-
6	tional interest to grant such status;".
7	(b) Effective Date.—The amendments made by
8	subsection (a) take effect beginning on January 31, 2013,
9	and shall have retroactive effect.
10	SEC. 2322. REUNIFICATION OF CERTAIN FAMILIES OF FILI-
11	PINO VETERANS OF WORLD WAR II.
12	(a) Short Title.—This section may be cited as the
13	"Filipino Veterans Family Reunification Act".
14	(b) Exemption From Immigrant Visa Limit.—
15	Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by
16	sections 2103(c), 2212(d), and 2307(b), is further amend-
17	ed by adding at the end the following:
18	"(O) Aliens who—
19	"(i) are the sons or daughters of a citizen
20	of the United States; and
21	"(ii) have a parent (regardless of whether
22	the parent is living or dead) who was natural-
23	ized pursuant to—

1	"(I) section 405 of the Immigration
2	Act of 1990 (Public Law 101–649; 8
3	U.S.C. 1440 note); or
4	"(II) title III of the Act of October
5	14, 1940 (54 Stat. 1137, chapter 876), as
6	added by section 1001 of the Second War
7	Powers Act, 1942 (56 Stat. 182, chapter
8	199).".
9	SEC. 2323. ENSURING COMPLIANCE WITH RESTRICTIONS
10	ON WELFARE AND PUBLIC BENEFITS FOR
11	ALIENS.
12	(a) General Prohibition.—No officer or employee
13	of the Federal Government may—
14	(1) waive compliance with any requirement in
15	title IV of the Personal Responsibility and Work Op-
16	portunity Reconciliation Act of 1996 (8 U.S.C. 1601
17	et seq.) in effect on the date of enactment of this
18	Act or with any restriction on eligibility for any form
19	of assistance or benefit described in section 403(a)
20	of the Personal Responsibility and Work Oppor-
21	tunity Reconciliation Act of 1996 (8 U.S.C.
22	1613(a)) established under a provision of this Act or
23	an amendment made by this Act;
24	(2) waive the prohibition under subsection
25	

tionality Act (as added by section 2101 of this Act)
on eligibility for Federal means-tested public benefits for any alien granted registered provisional immigrant status under section 245B of the Immigra-

tion and Nationality Act;

(3) waive the prohibition under subsection (c)(3) of section 2211 of this Act on eligibility for Federal means-tested public benefits for any alien

granted blue card status under that section;

- (4) waive the prohibition under subsection (c) of section 2309 of this Act on eligibility for Federal means-tested public benefits for any noncitizen who is lawfully present in the United States pursuant to section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) (as amended by section 2309(a)); or
- (5) waive the prohibition under subsection (w)(2)(C) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(w)(2)(C)) (as added by section 4504(b) of this Act) on eligibility for any assistance or benefits described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) for any alien described in section 101(a)(15)(Y) of the Immigration and Nationality Act (8 U.S.C.

1	1101(a)(15)(Y) (as added by section 4504 of this
2	Act) who is issued a nonimmigrant visa.
3	(b) Ensuring Compliance With Federal Wel-
4	FARE LAW.—
5	(1) No waiver of requirements.—Notwith-
6	standing section 1115(a) of the Social Security Act
7	(42 U.S.C. 1315(a)), the Secretary of Health and
8	Human Services shall not waive compliance by a
9	State, or otherwise permit a State to not comply,
10	with the requirements for the temporary assistance
11	for needy families program referenced in section
12	408(e) of the Social Security Act (42 U.S.C. 608(e))
13	and the requirements for that program in section
14	408(g) of such Act (42 U.S.C. 608(g)).
15	(2) No waiver of penalties.—The Secretary
16	of Health and Human Services shall apply section
17	409 of the Social Security Act (42 U.S.C. 609) to
18	any State that fails to comply with any of the re-
19	quirements specified in paragraph (1).
20	Subtitle D—Conrad State 30 and
21	Physician Access
22	SEC. 2401. CONRAD STATE 30 PROGRAM.
23	Section 220(c) of the Immigration and Nationality
24	Technical Corrections Act of 1994 (Public Law 103–416;

1	8 U.S.C. 1182 note) is amended by striking "and before
2	September 30, 2015".
3	SEC. 2402. RETAINING PHYSICIANS WHO HAVE PRACTICED
4	IN MEDICALLY UNDERSERVED COMMU-
5	NITIES.
6	Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended
7	by sections 2103(c), 2212(d)(2), 2307(b), and 2323(b) is
8	further amended by adding at the end the following:
9	"(P)(i) Alien physicians who have completed
10	service requirements of a waiver requested under
11	section 203(b)(2)(B)(ii), including alien physicians
12	who completed such service before the date of the
13	enactment of the Border Security, Economic Oppor-
14	tunity, and Immigration Modernization Act and any
15	spouses or children of such alien physicians.
16	"(ii) Nothing in this subparagraph may be con-
17	strued—
18	"(I) to prevent the filing of a petition with
19	the Secretary of Homeland Security for classi-
20	fication under section 204(a) or the filing of an
21	application for adjustment of status under sec-
22	tion 245 by an alien physician described in this
23	subparagraph prior to the date by which such
24	alien physician has completed the service de-
25	scribed in section 214(l) or worked full-time as

1	a physician for an aggregate of 5 years at the
2	location identified in the section 214(l) waiver
3	or in an area or areas designated by the Sec-
4	retary of Health and Human Services as having
5	a shortage of health care professionals; or
6	"(II) to permit the Secretary of Homeland
7	Security to grant such a petition or application
8	until the alien has satisfied all the requirements
9	of the waiver received under section 214(1).".
10	SEC. 2403. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.
11	(a) In General.—Section 214(l)(1)(C) (8 U.S.C.
12	1184(l)(1)(C)) is amended by striking clauses (i) and (ii)
13	and inserting the following:
14	"(i) the alien demonstrates a bona fide
15	offer of full-time employment, at a health care
16	organization, which employment has been deter-
17	mined by the Secretary of Homeland Security
18	to be in the public interest; and
19	"(ii) the alien agrees to begin employment
20	with the health facility or health care organiza-
21	tion in a geographic area or areas which are
22	designated by the Secretary of Health and
23	Human Services as having a shortage of health
24	care professionals by the later of the date that

after completing graduate medical education or training under a program approved pursuant to section 212(j)(1), or 90 days after receiving nonimmigrant status or employment authorization, provided that the alien or the alien's employer petitions for such nonimmigrant status or employment authorization within 90 days of completing graduate medical education or training and agrees to continue to work for a total of not less than 3 years in any status authorized for such employment under this subsection, unless—

"(I) the Secretary determines that extenuating circumstances exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate another bona fide offer of employment at a health facility or health care organization, for the remainder of such 3-year period;

"(II) the interested agency that requested the waiver attests that extenuating circumstances exist that justify a lesser period of employment at such facility or organization in which case the alien shall

1 demonstrate another bona fide offer of em-2 ployment at a health facility or health care 3 organization so designated by the Sec-4 retary of Health and Human Services, for the remainder of such 3-year period; or 6 "(III) if the alien elects not to pursue 7 determination of extenuating cir-8 cumstances pursuant to subclause (I) or 9 (II), the alien terminates the alien's em-10 ployment relationship with such facility or 11 organization, in which case the alien shall 12 be employed for the remainder of such 3-13 year period, and 1 additional year for each 14 termination, at another health facility or 15 health care organization in a geographic 16 area or areas which are designated by the 17 Secretary of Health and Human Services 18 as having a shortage of health care profes-19 sionals; and". 20 Physician Employment in Underserved 21 Areas.—Section 214(1)(1) (8 U.S.C. 1184(1)(1)), as 22 amended by subsection (a), is further amended by adding 23 at the end the following: 24 "(E) If a physician pursuing graduate medical 25 education ortraining pursuant to section

- 1 101(a)(15)(J) applies for a Conrad J-1 waiver with 2 an interested State department of health and the ap-3 plication is denied because the State has requested 4 the maximum number of waivers permitted for that 5 fiscal year, the physician's nonimmigrant status 6 shall be automatically extended for 6 months if the 7 physician agrees to seek a waiver under this sub-8 section (except for subparagraph (D)(ii)) to work for 9 an employer in a State that has not yet requested 10 the maximum number of waivers. The physician 11 shall be authorized to work only for such employer 12 from the date on which a new waiver application is 13 filed with the State until the date on which the Sec-14 retary of Homeland Security denies such waiver or 15 issues work authorization for such employment pur-16 suant to the approval of such waiver.".
- (c) Graduate Medical Education or Train-
- 18 ING.—Section 214(h)(1), as amended by section 4401(b)
- 19 of this Act, is further amended by inserting "(J) (if enter-
- 20 ing the United States for graduate medical education or
- 21 training)," after "(H)(i)(c),".
- 22 (d) Contract Requirements.—Section 214(l) (8
- 23 U.S.C. 1184(l)) is amended by adding at the end the fol-
- 24 lowing:

1	"(4) An alien granted a waiver under paragraph
2	(1)(C) shall enter into an employment agreement with the
3	contracting health facility or health care organization
4	that—
5	"(A) specifies the maximum number of on-call
6	hours per week (which may be a monthly average)
7	that the alien will be expected to be available and
8	the compensation the alien will receive for on-call
9	time;
10	"(B) specifies whether the contracting facility
11	or organization will pay for the alien's malpractice
12	insurance premiums, including whether the employer
13	will provide malpractice insurance and, if so, the
14	amount of such insurance that will be provided;
15	"(C) describes all of the work locations that the
16	alien will work and a statement that the contracting
17	facility or organization will not add additional work
18	locations without the approval of the Federal agency
19	or State agency that requested the waiver; and
20	"(D) does not include a non-compete provision.
21	"(5) An alien granted a waiver under paragraph
22	(1)(C) whose employment relationship with a health facil-
23	ity or health care organization terminates during the 3-
24	year service period required by such paragraph—

- 1 "(A) shall have a period of 120 days beginning 2 on the date of such termination of employment to 3 submit to the Secretary of Homeland Security applications or petitions to commence employment with 5 another contracting health facility or health care or-6 ganization in a geographic area or areas which are 7 designated by the Secretary of Health and Human 8 Services as having a shortage of health care profes-9 sionals;
- "(B) shall be considered to be maintaining lawful status in an authorized stay during the 120-day period referred to in subsection (A); and
- "(C) shall not be considered to be fulfilling the 3-year term of service during the 120-day period referred to in subparagraph (A).".

16 SEC. 2404. ALLOTMENT OF CONRAD 30 WAIVERS.

- 17 (a) IN GENERAL.—Section 214(l) (8 U.S.C. 1184(l)),
- 18 as amended by section 2403, is further amended by adding
- 19 at the end the following:
- 20 "(6)(A)(i) All States shall be allotted a total of 35
- 21 waivers under paragraph (1)(B) for a fiscal year if 90 per-
- 22 cent of the waivers available to the States receiving at
- 23 least 5 waivers were used in the previous fiscal year.
- 24 "(ii) When an allocation has occurred under clause
- 25 (i), all States shall be allotted an additional 5 waivers

- 1 under paragraph (1)(B) for each subsequent fiscal year
- 2 if 90 percent of the waivers available to the States receiv-
- 3 ing at least 5 waivers were used in the previous fiscal year.
- 4 If the States are allotted 45 or more waivers for a fiscal
- 5 year, the States will only receive an additional increase
- 6 of 5 waivers the following fiscal year if 95 percent of the
- 7 waivers available to the States receiving at least 1 waiver
- 8 were used in the previous fiscal year.
- 9 "(B) Any increase in allotments under subparagraph
- 10 (A) shall be maintained indefinitely, unless in a fiscal year,
- 11 the total number of such waivers granted is 5 percent
- 12 lower than in the last year in which there was an increase
- 13 in the number of waivers allotted pursuant to this para-
- 14 graph, in which case—
- 15 "(i) the number of waivers allotted shall be de-
- creased by 5 for all States beginning in the next fis-
- 17 cal year; and
- 18 "(ii) each additional 5 percent decrease in such
- waivers granted from the last year in which there
- was an increase in the allotment, shall result in an
- 21 additional decrease of 5 waivers allotted for all
- States, provided that the number of waivers allotted
- for all States shall not drop below 30.".
- 24 (b) Academic Medical Centers.—Section
- 25 214(l)(1)(D) (8 U.S.C. 1184(l)(1)(D)) is amended—

1	(1) in clause (ii), by striking "and" at the end;
2	(2) in clause (iii), by striking the period at the
3	end and inserting "; and; and
4	(3) by adding at the end the following:
5	"(iv) in the case of a request by an inter-
6	ested State agency—
7	"(I) the head of such agency deter-
8	mines that the alien is to practice medicine
9	in, or be on the faculty of a residency pro-
10	gram at, an academic medical center (as
11	that term is defined in section
12	411.355(e)(2) of title 42, Code of Federal
13	Regulations, or similar successor regula-
14	tion), without regard to whether such facil-
15	ity is located within an area designated by
16	the Secretary of Health and Human Serv-
17	ices as having a shortage of health care
18	professionals; and
19	"(II) the head of such agency deter-
20	mines that—
21	"(aa) the alien physician's work
22	is in the public interest; and
23	"(bb) the grant of such waiver
24	would not cause the number of the
25	waivers granted on behalf of aliens for

1	such State for a fiscal year (within
2	the limitation in subparagraph (B)
3	and subject to paragraph (6)) in ac-
4	cordance with the conditions of this
5	clause to exceed 3.".
6	SEC. 2405. AMENDMENTS TO THE PROCEDURES, DEFINI-
7	TIONS, AND OTHER PROVISIONS RELATED TO
8	PHYSICIAN IMMIGRATION.
9	(a) Allowable Visa Status for Physicians Ful-
10	FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-
11	SERVED AREAS.—Section 214(l)(2)(A) (8 U.S.C.
12	1184(l)(2)(A)) is amended by striking "an alien described
13	in section 101(a)(15)(H)(i)(b)." and inserting "any status
14	authorized for employment under this Act.".
15	(b) Short Term Work Authorization for Phy-
16	SICIANS COMPLETING THEIR RESIDENCIES.—A physician
17	completing graduate medical education or training as de-
18	scribed in section 212(j) of the Immigration and Nation-
19	ality Act (8 U.S.C. 1182(j)) as a nonimmigrant described
20	in section $101(a)(15)(H)(i)$ of such Act (8 U.S.C.
21	1101(a)(15)(H)(i)) shall have such nonimmigrant status
22	automatically extended until October 1 of the fiscal year
23	for which a petition for a continuation of such non-
24	immigrant status has been submitted in a timely manner
25	and where the employment start date for the beneficiary

- 1 of such petition is October 1 of that fiscal year. Such phy-
- 2 sician shall be authorized to be employed incident to status
- 3 during the period between the filing of such petition and
- 4 October 1 of such fiscal year. However, the physician's
- 5 status and employment authorization shall terminate 30
- 6 days from the date such petition is rejected, denied, or
- 7 revoked. A physician's status and employment authoriza-
- 8 tion will automatically extend to October 1 of the next fis-
- 9 cal year if all visas as described in such section
- 10 101(a)(15)(H)(i) authorized to be issued for the fiscal
- 11 year have been issued.
- 12 (c) Applicability of Section 212(e) to Spouses
- 13 AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse
- 14 or child of an exchange visitor described in section
- 15 101(a)(15)(J) of the Immigration and Nationality Act (8
- 16 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-
- 17 ments of section 212(e) of the Immigration and Nation-
- 18 ality Act (8 U.S.C. 1182(e)).

19 Subtitle E—Integration

- 20 SEC. 2501. DEFINITIONS.
- In this subtitle:
- 22 (1) CHIEF.—The term "Chief" means the Chief
- of the Office.

1	(2) FOUNDATION.—The term "Foundation"
2	means the United States Citizenship Foundation es-
3	tablished pursuant to section 2531.
4	(3) IEACA GRANTS.—The term "IEACA
5	grants" means Initial Entry, Adjustment, and Citi-
6	zenship Assistance grants authorized under section
7	2537.
8	(4) Immigrant integration.—The term "im-
9	migrant integration" means the process by which
10	immigrants—
11	(A) join the mainstream of civic life by en-
12	gaging and sharing ownership in their local
13	community, the United States, and the prin-
14	ciples of the Constitution;
15	(B) attain financial self-sufficiency and up-
16	ward economic mobility for themselves and their
17	family members; and
18	(C) acquire English language skills and re-
19	lated cultural knowledge necessary to effectively
20	participate in their community.
21	(5) LINGUISTIC INTEGRATION.—The term "lin-
22	guistic integration" means the acquisition, by limited
23	English proficient individuals, of English language
24	skills and related cultural knowledge necessary to

1	meaningfully and effectively fulfill their roles as
2	community members, family members, and workers.
3	(6) Office.—The term "Office" means the Of-
4	fice of Citizenship and New Americans established in
5	U.S. Citizenship and Immigration Services under
6	section 2511.
7	(7) Receiving communities.—The term "re-
8	ceiving communities" means the long-term residents
9	of the communities in which immigrants settle.
10	(8) Task force.—The term "Task Force"
11	means the Task Force on New Americans estab-
12	lished pursuant to section 2521.
13	(9) USCF COUNCIL.—The term "USCF Coun-
14	cil" means the Council of Directors of the Founda-
15	tion.
16	CHAPTER 1—CITIZENSHIP AND NEW
17	AMERICANS
18	Subchapter A—Office of Citizenship and New
19	Americans
20	SEC. 2511. OFFICE OF CITIZENSHIP AND NEW AMERICANS.
21	(a) Renaming Office of Citizenship.—
22	(1) In general.—Beginning on the date of the
23	enactment of this Act, the Office of Citizenship in
24	U.S. Citizenship and Immigration Services shall be

1	referred to as the "Office of Citizenship and New
2	Americans''.
3	(2) References.—Any reference in a law, reg-
4	ulation, document, paper, or other record of the
5	United States to the Office of Citizenship in U.S.
6	Citizenship and Immigration Services shall be
7	deemed to be a reference to the Office of Citizenship
8	and New Americans.
9	(3) Technical and conforming amend-
10	MENTS.—Section 451 of the Homeland Security Act
11	of 2002 (6 U.S.C. 271) is amended—
12	(A) in the section heading, by striking
13	"BUREAU OF" and inserting "U.S.";
14	(B) in subsection (a)(1), by striking "the
15	'Bureau of" and inserting "'U.S.";
16	(C) by striking "the Bureau of" each place
17	such terms appears and inserting "U.S."; and
18	(D) in subsection (f)—
19	(i) by amending the subsection head-
20	ing to read as follows: "Office of Citi-
21	ZENSHIP AND NEW AMERICANS"; and
22	(ii) by striking paragraph (1) and in-
23	serting the following:
24	"(1) Chief.—The Office of Citizenship and
25	New Americans shall be within U.S. Citizenship and

1	Immigration Services and shall be headed by the
2	Chief of the Office of Citizenship and New Ameri-
3	cans.".
4	(b) Functions.—Section 451(f) of such Act (6
5	U.S.C. 271(f)), as amended by subsection (a)(3)(D), is
6	further amended by striking paragraph (2) and inserting
7	the following:
8	"(2) Functions.—The Chief of the Office of
9	Citizenship and New Americans shall—
10	"(A) promote institutions and provide
11	training on citizenship responsibilities for aliens
12	interested in becoming naturalized citizens of
13	the United States, including the development of
14	educational materials for such aliens;
15	"(B) provide general leadership, consulta-
16	tion, and coordination of the immigrant integra-
17	tion programs across the Federal Government
18	and with State and local entities;
19	"(C) in coordination with the Task Force
20	on New Americans established under section
21	2521 of the Border Security, Economic Oppor-
22	tunity, and Immigration Modernization Act—
23	"(i) advise the Director of U.S. Citi-
24	zenship and Immigration Services, the Sec-

1	retary of Homeland Security, and the Do-
2	mestic Policy Council, on—
3	"(I) the challenges and opportu-
4	nities relating to the linguistic, eco-
5	nomic, and civic integration of immi-
6	grants and their young children and
7	progress in meeting integration goals
8	and indicators; and
9	"(II) immigrant integration con-
10	siderations relating to Federal budg-
11	${ m ets};$
12	"(ii) establish national goals for intro-
13	ducing new immigrants into the United
14	States and measure the degree to which
15	such goals are met;
16	"(iii) evaluate the scale, quality, and
17	effectiveness of Federal Government efforts
18	in immigrant integration and provide ad-
19	vice on appropriate actions; and
20	"(iv) identify the integration implica-
21	tions of new or proposed immigration poli-
22	cies and provide recommendations for ad-
23	dressing such implications;
24	"(D) serve as a liaison and intermediary
25	with State and local governments and other en-

1	tities to assist in establishing local goals, task
2	forces, and councils to assist in—
3	"(i) introducing immigrants into the
4	United States; and
5	"(ii) promoting citizenship education
6	and awareness among aliens interested in
7	becoming naturalized citizens of the United
8	States;
9	"(E) coordinate with other Federal agen-
10	cies to provide information to State and local
11	governments on the demand for existing Fed-
12	eral and State English education programs and
13	best practices for immigrants who recently ar-
14	rived in the United States;
15	"(F) assist States in coordinating the ac-
16	tivities of the grant programs authorized under
17	sections 2537 and 2538 of the Border Security,
18	Economic Opportunity, and Immigration Mod-
19	ernization Act;
20	"(G) submit a biennial report to the appro-
21	priate congressional committees that describes
22	the activities of the Office of Citizenship and
23	New Americans; and
24	"(H) carry out such other functions and
25	activities as Secretary may assign.".

1	(c) Effective Date.—The amendments made by
2	subsections (a) and (b) shall take effect on the date that
3	is 1 year after the date of the enactment of this Act.
4	Subchapter B—Task Force on New
5	Americans
6	SEC. 2521. ESTABLISHMENT.
7	(a) In General.—The Secretary shall establish a
8	Task Force on New Americans.
9	(b) Fully Functional.—The Task Force shall be
10	fully functional not later than 18 months after the date
11	of the enactment of this Act.
12	SEC. 2522. PURPOSE.
13	The purposes of the Task Force are—
14	(1) to establish a coordinated Federal program
15	and policy response to immigrant integration issues
16	and
17	(2) to advise and assist the Federal Govern-
18	ment in identifying and fostering policies to carry
19	out the policies and goals established under this
20	chapter.
21	SEC. 2523. MEMBERSHIP.
22	(a) In General.—The Task Force shall be com-
23	prised of—
24	(1) the Secretary, who shall serve as Chair of
25	the Task Force:

1	(2) the Secretary of the Treasury;
2	(3) the Attorney General;
3	(4) the Secretary of Commerce;
4	(5) the Secretary of Labor;
5	(6) the Secretary of Health and Human Serv-
6	ices;
7	(7) the Secretary of Housing and Urban Devel-
8	opment;
9	(8) the Secretary of Transportation;
10	(9) the Secretary of Education;
11	(10) the Director of the Office of Management
12	and Budget;
13	(11) the Administrator of the Small Business
14	Administration;
15	(12) the Director of the Domestic Policy Coun-
16	cil;
17	(13) the Director of the National Economic
18	Council; and
19	(14) the National Security Advisor.
20	(b) Delegation.—A member of the Task Force may
21	delegate a senior official, at the Assistant Secretary, Dep-
22	uty Administrator, Deputy Director, or Assistant Attorney
23	General level, to perform the functions of a Task Force
24	member described in section 2524.

1	SEC. 2524. FUNCTIONS.
2	(a) Meetings; Functions.—The Task Force
3	shall—
4	(1) meet at the call of the Chair; and
5	(2) perform such functions as the Secretary
6	may prescribe.
7	(b) COORDINATED RESPONSE.—The Task Force
8	shall work with executive branch agencies—
9	(1) to provide a coordinated Federal response
10	to issues that impact the lives of new immigrants
11	and receiving communities, including—
12	(A) access to youth and adult education
13	programming;
14	(B) workforce training;
15	(C) health care policy;
16	(D) access to naturalization; and
17	(E) community development challenges;
18	and
19	(2) to ensure that Federal programs and poli-
20	cies adequately address such impacts.
21	(c) Liaisons.—Members of the Task Force shall
22	serve as liaisons to their respective agencies to ensure the
23	quality and timeliness of their agency's participation in ac-
24	tivities of the Task Force, including—
25	(1) creating integration goals and indicators;

1	(2) implementing the biannual consultation
2	process with the agency's State and local counter-
3	parts; and
4	(3) reporting on agency data collection, policy
5	and program efforts relating to achieving the goals
6	and indicators referred to in paragraph (1).
7	(d) RECOMMENDATIONS.—Not later than 18 months
8	after the end of the period specified in section 2521(b)
9	the Task Force shall—
10	(1) provide recommendations to the Domestic
11	Policy Council and the Secretary on the effects of
12	pending legislation and executive branch policy pro-
13	posals;
14	(2) suggest changes to Federal programs or
15	policies to address issues of special importance to
16	new immigrants and receiving communities;
17	(3) review and recommend changes to policies
18	that have a distinct impact on new immigrants and
19	receiving communities; and
20	(4) assist in the development of legislative and
21	policy proposals of special importance to new immi-
22	grants and receiving communities.

1	CHAPTER 2—PUBLIC-PRIVATE
2	PARTNERSHIP
3	SEC. 2531. ESTABLISHMENT OF UNITED STATES CITIZEN-
4	SHIP FOUNDATION.
5	The Secretary, acting through the Director of U.S.
6	Citizenship and Immigration Services, is authorized to es-
7	tablish a nonprofit corporation or a not-for-profit, public
8	benefit, or similar entity, which shall be known as the
9	"United States Citizenship Foundation".
10	SEC. 2532. FUNDING.
11	(a) Gifts to Foundation.—In order to carry out
12	the purposes set forth in section 2533, the Foundation
13	may—
14	(1) solicit, accept, and make gifts of money and
15	other property in accordance with section 501(c)(3)
16	of the Internal Revenue Code of 1986;
17	(2) engage in coordinated work with the De-
18	partment, including the Office and U.S. Citizenship
19	and Immigration Services; and
20	(3) accept, hold, administer, invest, and spend
21	any gift, devise, or bequest of real or personal prop-
22	erty made to the Foundation.
23	(b) GIFTS TO OFFICE OF CITIZENSHIP AND NEW
24	AMERICANS.—The Office may accept gifts from the Foun-
25	dation to support the functions of the Office.

1	SEC. 2533. PURPOSES.
2	The purposes of the Foundation are—
3	(1) to expand citizenship preparation programs
4	for lawful permanent residents;
5	(2) to provide direct assistance for aliens seek-
6	ing provisional immigrant status, legal permanent
7	resident status, or naturalization as a United States
8	citizen; and
9	(3) to coordinate immigrant integration with
10	State and local entities.
11	SEC. 2534. AUTHORIZED ACTIVITIES.
12	The Foundation shall carry out its purpose by—
13	(1) making United States citizenship instruc-
14	tion and naturalization application services acces-
15	sible to low-income and other underserved lawful
16	permanent resident populations;
17	(2) developing, identifying, and sharing best
18	practices in United States citizenship preparation;
19	(3) supporting innovative and creative solutions
20	to barriers faced by those seeking naturalization;
21	(4) increasing the use of, and access to, tech-
22	nology in United States citizenship preparation pro-
23	grams;
24	(5) engaging receiving communities in the
25	United States citizenship and civic integration proc-

ess;

26

1	(6) administering the New Citizens Award Pro-
2	gram to recognize, in each calendar year, not more
3	than 10 United States citizens who—
4	(A) have made outstanding contributions
5	to the United States; and
6	(B) have been naturalized during the 10-
7	year period ending on the date of such recogni-
8	tion;
9	(7) fostering public education and awareness;
10	(8) coordinating its immigrant integration ef-
11	forts with the Office;
12	(9) awarding grants to eligible public or private
13	nonprofit organizations under section 2537; and
14	(10) awarding grants to State and local govern-
15	ments under section 2538.
16	SEC. 2535. COUNCIL OF DIRECTORS.
17	(a) Members.—To the extent consistent with section
18	501(c)(3) of the Internal Revenue Code of 1986, the
19	Foundation shall have a Council of Directors, which shall
20	be comprised of—
21	(1) the Director of U.S. Citizenship and Immi-
22	gration Services;
23	(2) the Chief of the Office of Citizenship and
24	New Americans; and

1	(3) 10 directors, appointed by the ex-officio di-
2	rectors designated in paragraphs (1) and (2), from
3	national community-based organizations that pro-
4	mote and assist permanent residents with natu-
5	ralization.
6	(b) Appointment of Executive Director.—The
7	USCF Council shall appoint an Executive Director, who
8	shall oversee the day-to-day operations of the Foundation
9	SEC. 2536. POWERS.
10	The Executive Director is authorized to carry out the
11	purposes set forth in section 2533 on behalf of the Foun-
12	dation by—
13	(1) accepting, holding, administering, investing
14	and spending any gift, devise, or bequest of real or
15	personal property made to the Foundation;
16	(2) entering into contracts and other financial
17	assistance agreements with individuals, public or pri-
18	vate organizations, professional societies, and gov-
19	ernment agencies to carry out the functions of the
20	Foundation;
21	(3) entering into such other contracts, leases
22	cooperative agreements, and other transactions as
23	the Executive Director considers appropriate to
24	carry out the activities of the Foundation, and

1	(4) charging such fees for professional services
2	furnished by the Foundation as the Executive Direc-
3	tor determines reasonable and appropriate.
4	SEC. 2537. INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP
5	ASSISTANCE GRANT PROGRAM.
6	(a) Authorization.—The Secretary, acting through
7	the Director of U.S. Citizenship and Immigration Serv-
8	ices, may award Initial Entry, Adjustment, and Citizen-
9	ship Assistance grants to eligible public or private, non-
10	profit organizations.
11	(b) USE OF GRANT FUNDS.—IEACA grants shall be
12	used for the design and implementation of programs that
13	provide direct assistance, within the scope of the author-
14	ized practice of immigration law—
15	(1) to aliens who are preparing an initial appli-
16	cation for registered provisional immigrant status
17	under section 245B of the Immigration and Nation-
18	ality Act and to aliens who are preparing an initial
19	application for blue card status under section 2211,
20	including assisting applicants in—
21	(A) screening to assess prospective appli-
22	cants' potential eligibility or lack of eligibility;
23	(B) completing applications;
24	(C) gathering proof of identification, em-
25	ployment, residence, and tax payment:

1	(D) gathering proof of relationships of eli-
2	gible family members;
3	(E) applying for any waivers for which ap-
4	plicants and qualifying family members may be
5	eligible; and
6	(F) any other assistance that the Secretary
7	or grantee considers useful to aliens who are in-
8	terested in applying for registered provisional
9	immigrant status;
10	(2) to aliens seeking to adjust their status
11	under section 245, 245B, 245C, or 245F of the Im-
12	migration and Nationality Act;
13	(3) to legal permanent residents seeking to be-
14	come naturalized United States citizens; and
15	(4) to applicants on—
16	(A) the rights and responsibilities of
17	United States citizenship;
18	(B) civics-based English as a second lan-
19	guage;
20	(C) civics, with a special emphasis on com-
21	mon values and traditions of Americans, includ-
22	ing an understanding of the history of the
23	United States and the principles of the Con-
24	stitution; and
25	(D) applying for United States citizenship.

1	SEC. 2538. PILOT PROGRAM TO PROMOTE IMMIGRANT IN-
2	TEGRATION AT STATE AND LOCAL LEVELS.
3	(a) Grants Authorized.—The Chief shall establish
4	a pilot program through which the Chief may award
5	grants, on a competitive basis, to States and local govern-
6	ments or other qualifying entities, in collaboration with
7	State and local governments—
8	(1) to establish New Immigrant Councils to
9	carry out programs to integrate new immigrants; or
10	(2) to carry out programs to integrate new im-
11	migrants.
12	(b) APPLICATION.—A State or local government de-
13	siring a grant under this section shall submit an applica-
14	tion to the Chief at such time, in such manner, and con-
15	taining such information as the Chief may reasonably re-
16	quire, including—
17	(1) a proposal to meet an objective or combina-
18	tion of objectives set forth in subsection (d)(3);
19	(2) the number of new immigrants in the appli-
20	eant's jurisdiction; and
21	(3) a description of the challenges in intro-
22	ducing and integrating new immigrants into the
23	State or local community.
24	(c) Priority.—In awarding grants under this sec-
25	tion, the Chief shall give priority to States and local gov-
26	ernments or other qualifying entities that—

1	(1) use matching funds from non-Federal
2	sources, which may include in-kind contributions;
3	(2) demonstrate collaboration with public and
4	private entities to achieve the goals of the com-
5	prehensive plan developed pursuant to subsection
6	(d)(3);
7	(3) are 1 of the 10 States with the highest rate
8	of foreign-born residents; or
9	(4) have experienced a large increase in the
10	population of immigrants during the most recent 10-
11	year period relative to past migration patterns,
12	based on data compiled by the Office of Immigration
13	Statistics or the United States Census Bureau.
14	(d) Authorized Activities.—A grant awarded
15	under this subsection may be used—
16	(1) to form a New Immigrant Council, which
17	shall—
18	(A) consist of between 15 and 19 individ-
19	uals, inclusive, from the State, local govern-
20	ment, or qualifying organization;
21	(B) include, to the extent practicable, rep-
22	resentatives from—
23	(i) business;
24	(ii) faith-based organizations;
25	(iii) civic organizations;

1	(iv) philanthropic organizations;
2	(v) nonprofit organizations, including
3	those with legal and advocacy experience
4	working with immigrant communities;
5	(vi) key education stakeholders, such
6	as State educational agencies, local edu-
7	cational agencies, community colleges, and
8	teachers;
9	(vii) State adult education offices;
10	(viii) State or local public libraries;
11	and
12	(ix) State or local governments; and
13	(C) meet not less frequently than once
14	each quarter;
15	(2) to provide subgrants to local communities,
16	city governments, municipalities, nonprofit organiza-
17	tions (including veterans' and patriotic organiza-
18	tions), or other qualifying entities;
19	(3) to develop, implement, expand, or enhance
20	a comprehensive plan to introduce and integrate new
21	immigrants into the State by—
22	(A) improving English language skills;
23	(B) engaging caretakers with limited
24	English proficiency in their child's education

1	through interactive parent and child literacy ac-
2	tivities;
3	(C) improving and expanding access to
4	workforce training programs;
5	(D) teaching United States history, civics
6	education, citizenship rights, and responsibil-
7	ities;
8	(E) promoting an understanding of the
9	form of government and history of the United
10	States and the principles of the Constitution;
11	(F) improving financial literacy; and
12	(G) focusing on other key areas of impor-
13	tance to integration in our society; and
14	(4) to engage receiving communities in the citi-
15	zenship and civic integration process by—
16	(A) increasing local service capacity;
17	(B) building meaningful connections be-
18	tween newer immigrants and long-time resi-
19	dents;
20	(C) communicating the contributions of re-
21	ceiving communities and new immigrants; and
22	(D) engaging leaders from all sectors of
23	the community.
24	(e) Reporting and Evaluation.—

1	(1) Annual Report.—Each grant recipient
2	shall submit an annual report to the Office that de-
3	scribes—
4	(A) the activities undertaken by the grant
5	recipient, including how such activities meet the
6	goals of the Office, the Foundation, and the
7	comprehensive plan described in subsection
8	(d)(3);
9	(B) the geographic areas being served;
10	(C) the number of immigrants in such
11	areas; and
12	(D) the primary languages spoken in such
13	areas.
14	(2) Annual Evaluation.—The Chief shall
15	conduct an annual evaluation of the grant program
16	established under this section—
17	(A) to assess and improve the effectiveness
18	of such grant program;
19	(B) to assess the future needs of immi-
20	grants and of State and local governments re-
21	lated to immigrants; and
22	(C) to ensure that grantees recipients and
23	subgrantees are acting within the scope and
24	purpose of this subchapter.

1 SEC. 2539. NATURALIZATION CEREMONIES.

- 2 (a) IN GENERAL.—The Chief, in consultation with
- 3 the Director of the National Park Service, the Archivist
- 4 of the United States, and other appropriate Federal offi-
- 5 cials, shall develop and implement a strategy to enhance
- 6 the public awareness of naturalization ceremonies.
- 7 (b) Venues.—In developing the strategy under sub-
- 8 section (a), the Secretary shall consider the use of out-
- 9 standing and historic locations as venues for select natu-
- 10 ralization ceremonies.
- 11 (c) Reporting Requirement.—The Secretary shall
- 12 annually submit a report to Congress that contains—
- 13 (1) the content of the strategy developed under
- subsection (a); and
- 15 (2) the progress made towards the implementa-
- tion of such strategy.

17 **CHAPTER 3—FUNDING**

- 18 SEC. 2541. AUTHORIZATION OF APPROPRIATIONS.
- 19 (a) Office of Citizenship and New Ameri-
- 20 CANS.—In addition to any amounts otherwise made avail-
- 21 able to the Office, there are authorized to be appropriated
- 22 to carry out the functions described in section 451(f)(2)
- 23 of the Homeland Security Act of 2002 (6 U.S.C.
- 24 271(f)(2)), as amended by section 2511(b)—
- (1) \$10,000,000 for the 5-year period ending
- on September 30, 2018; and

1	(2) such sums as may be necessary for fiscal
2	year 2019 and subsequent fiscal years.
3	(b) Grant Programs.—There are authorized to be
4	appropriated to implement the grant programs authorized
5	under sections 2537 and 2538, and to implement the
6	strategy under section 2539—
7	(1) \$100,000,000 for the 5-year period ending
8	on September 30, 2018; and
9	(2) such sums as may be necessary for fiscal
10	year 2019 and subsequent fiscal years.
11	CHAPTER 4—REDUCE BARRIERS TO
12	NATURALIZATION
13	SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SEN-
	SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SEN- IOR NEW AMERICANS.
14	
13 14 15 16	IOR NEW AMERICANS.
14 15	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking
14 15 16 17	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following:
14 15 16 17	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following: "(b) The requirements under subsection (a) shall not
14 15 16 17 18	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following: "(b) The requirements under subsection (a) shall not apply to any person who—
14 15 16 17 18	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following: "(b) The requirements under subsection (a) shall not apply to any person who— "(1) is unable to comply with such require-
14 15 16 17 18 19 20	Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following: "(b) The requirements under subsection (a) shall not apply to any person who— "(1) is unable to comply with such requirements because of physical or mental disability, in-
14 15 16 17 18 19 20 21	IOR NEW AMERICANS. Section 312 (8 U.S.C. 1423) is amended by striking subsection (b) and inserting the following: "(b) The requirements under subsection (a) shall not apply to any person who— "(1) is unable to comply with such requirements because of physical or mental disability, including developmental or intellectual disability; or

1	"(B) has been living in the United States
2	for periods totaling at least 5 years after being
3	lawfully admitted for permanent residence.
4	"(c) The requirement under subsection (a)(1) shall
5	not apply to any person who, on the date on which the
6	person's application for naturalization is filed under sec-
7	tion 334—
8	"(1) is older than 50 years of age and has been
9	living in the United States for periods totaling at
10	least 20 years after being lawfully admitted for per-
11	manent residence;
12	"(2) is older than 55 years of age and has been
13	living in the United States for periods totaling at
14	least 15 years after being lawfully admitted for per-
15	manent residence; or
16	"(3) is older than 60 years of age and has been
17	living in the United States for periods totaling at
18	least 10 years after being lawfully admitted for per-
19	manent residence.
20	"(d) The Secretary of Homeland Security may waive,
21	on a case-by-case basis, the requirement under subsection
22	(a)(2) on behalf of any person who, on the date on which
23	the person's application for naturalization is filed under
24	section 334—
25	"(1) is older than 60 years of age; and

1	"(2) has been living in the United States for
2	periods totaling at least 10 years after being lawfully
3	admitted for permanent residence.".
4	SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REG-
5	ULAR INTERNET ACCESS.
6	(a) Electronic Filing Not Required.—
7	(1) In General.—The Secretary may not re-
8	quire that an applicant or petitioner for permanent
9	residence or citizenship of the United States use an
10	electronic method to file any application, or access to
11	a customer account.
12	(2) Sunset date.—This subsection shall cease
13	to be effective on October 1, 2020.
14	(b) Notification Requirement.—Beginning on
15	October 1, 2020, the Secretary may not require that an
16	applicant or petitioner for permanent residence or citizen-
17	ship of the United States use an electronic method to file
18	any application or access to a customer account unless the
19	Secretary notifies the Committee on the Judiciary of the
20	Senate and the Committee on the Judiciary of the House
21	of Representatives of such requirement not later than 30
22	days before the effective date of such requirement.

1	SEC. 2553. PERMISSIBLE USE OF ASSISTED HOUSING BY
2	BATTERED IMMIGRANTS.
3	Section 214 of the Housing and Community Develop-
4	ment Act of 1980 (42 U.S.C. 1436a) is amended—
5	(1) in subsection (a)—
6	(A) in paragraph (6), by striking "; or"
7	and inserting a semicolon;
8	(B) by redesignating paragraph (7) as
9	paragraph (8); and
10	(C) by inserting after paragraph (6) the
11	following new paragraph:
12	"(7) a qualified alien described in section
13	431(c) of the Personal Responsibility and Work Op-
14	portunity Reconciliation Act of 1996 (8 U.S.C.
15	1641(e)); or"; and
16	(2) in subsection (e)—
17	(A) in paragraph (1)(A), by striking
18	"paragraphs (1) through (6)" and inserting
19	"paragraphs (1) through (7)"; and
20	(B) in paragraph (2)(A), by inserting
21	"(other than a qualified alien described in sec-
22	tion 431(c) of the Personal Responsibility and
23	Work Opportunity Reconciliation Act of 1996
24	(8 U.S.C. 1641(c)))" after "any alien".

	1	SEC.	2554.	UNITED	STATES	CITIZENSHIP	FOR	INTER
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- 2 NATIONALLY ADOPTED INDIVIDUALS.
- 3 (a) AUTOMATIC CITIZENSHIP.—Section 104 of the
- 4 Child Citizenship Act of 2000 (Public Law 106-395; 8
- 5 U.S.C. 1431 note) is amended to read as follows:
- 6 "SEC. 104. APPLICABILITY.
- 7 "The amendments made by this title shall apply to
- 8 any individual who satisfies the requirements under sec-
- 9 tion 320 or 322 of the Immigration and Nationality Act,
- 10 regardless of the date on which such requirements were
- 11 satisfied.".
- 12 (b) Modification of Preadoption Visitation
- 13 REQUIREMENT.—Section 101(b)(1)(F)(i) (8 U.S.C.
- 14 1101(b)(1)(F)(i)), as amended by section 2312, is further
- 15 amended by striking "at least twenty-five years of age,
- 16 who personally saw and observed the child prior to or dur-
- 17 ing the adoption proceedings;" and inserting "who is at
- 18 least 25 years of age, at least 1 of whom personally saw
- 19 and observed the child before or during the adoption pro-
- 20 ceedings;".
- 21 (c) Automatic Citizenship for Children of
- 22 United States Citizens Who Are Physically
- 23 Present in the United States.—
- 24 (1) IN GENERAL.—Section 320(a)(3) (8 U.S.C.
- 1431(a)(3)) is amended to read as follows:

1	"(3) The child is physically present in the
2	United States in the legal custody of the citizen par-
3	ent pursuant to a lawful admission.".
4	(2) Applicability to individual's who no
5	LONGER HAVE LEGAL STATUS.—Notwithstanding
6	the lack of legal status or physical presence in the
7	United States, a person shall be deemed to meet the
8	requirements under section 320 of the Immigration
9	and Nationality Act, as amended by paragraph (1)
10	if the person—
11	(A) was born outside of the United States
12	(B) was adopted by a United States citizen
13	before the person reached 18 years of age;
14	(C) was legally admitted to the United
15	States; and
16	(D) would have qualified for automatic
17	United States citizenship if the amendments
18	made by paragraph (1) had been in effect at
19	the time of such admission.
20	(d) Retroactive Application.—Section 320(b) (8
21	U.S.C. 1431(b)) is amended by inserting ", regardless of
22	the date on which the adoption was finalized" before the
23	period at the end.
24	(e) APPLICABILITY.—The amendments made by this
25	section shall apply to any individual adopted by a citizen

1	of the United States regardless of whether the adoption
2	occurred prior to, on, or after the date of the enactment
3	of the Child Citizenship Act of 2000.
4	SEC. 2555. TREATMENT OF CERTAIN PERSONS AS HAVING
5	SATISFIED ENGLISH AND CIVICS, GOOD
6	MORAL CHARACTER, AND HONORABLE SERV-
7	ICE AND DISCHARGE REQUIREMENTS FOR
8	NATURALIZATION.
9	(a) Immigration and Nationality Act.—The Im-
10	migration and Nationality Act is amended by inserting
11	after section 329A (8 U.S.C. 1440–1) the following new
12	section:
13	"SEC. 329B. PERSONS WHO HAVE RECEIVED AN AWARD FOR
14	ENGAGEMENT IN ACTIVE COMBAT OR ACTIVE
15	PARTICIPATION IN COMBAT.
16	
10	"(a) In General.—
17	"(a) In General.— "(1) In General.—For purposes of naturaliza-
17	"(1) In general.—For purposes of naturaliza-
17 18	"(1) In general.—For purposes of naturalization and continuing citizenship under the following
17 18 19	"(1) In general.—For purposes of naturalization and continuing citizenship under the following provisions of law, a person who has received an
17 18 19 20	"(1) In General.—For purposes of naturalization and continuing citizenship under the following provisions of law, a person who has received an award described in subsection (b) shall be treated—
17 18 19 20 21	"(1) IN GENERAL.—For purposes of naturalization and continuing citizenship under the following provisions of law, a person who has received an award described in subsection (b) shall be treated— "(A) as having satisfied the requirements
117 118 119 220 221 222	"(1) In general.—For purposes of naturalization and continuing citizenship under the following provisions of law, a person who has received an award described in subsection (b) shall be treated— "(A) as having satisfied the requirements in sections 312(a), 316(a)(3), and subsections

1	honorably in the Armed Forces for (in the case
2	of section 328) a period or periods aggregating
3	one year, and, if separated from such service,
4	as having been separated under honorable con-
5	ditions.
6	"(2) Revocation.—Notwithstanding para-
7	graph (1)(B), any person who separated from the
8	Armed Forces under other than honorable conditions
9	may be subject to revocation of citizenship under
10	section 328(f) or 329(c) if the other requirements of
11	such section are met.
12	"(b) APPLICATION.—This section shall apply with re-
13	spect to the following awards from the Armed Forces of
14	the United States:
15	"(1) The Combat Infantryman Badge from the
16	Army.
17	"(2) The Combat Medical Badge from the
18	Army.
19	"(3) The Combat Action Badge from the Army.
20	"(4) The Combat Action Ribbon from the
21	Navy, the Marine Corps, or the Coast Guard.
22	"(5) The Air Force Combat Action Medal.
23	
	"(6) Any other award that the Secretary of De-

1	gagement in active combat or active participation in
2	combat.".
3	(b) CLERICAL AMENDMENT.—The table of contents
4	of such Act (8 U.S.C. 1101 et seq.) is amended by insert-
5	ing after the item relating to section 329A the following:
	"Sec. 329B. Persons who have received an award for engagement in active combat or active participation in combat.".
6	TITLE III—INTERIOR
7	ENFORCEMENT
8	Subtitle A—Employment
9	Verification System
10	SEC. 3101. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED
11	ALIENS.
12	(a) In General.—Section 274A (8 U.S.C. 1324a)
13	is amended to read as follows:
14	"SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.
15	"(a) Making Employment of Unauthorized
16	ALIENS UNLAWFUL.—
17	"(1) In general.—It is unlawful for an em-
18	ployer—
19	"(A) to hire, recruit, or refer for a fee an
20	alien for employment in the United States
21	knowing that the alien is an unauthorized alien
22	with respect to such employment; or
23	"(B) to hire, recruit, or refer for a fee for
24	employment in the United States an individual

without complying with the requirements under subsections (c) and (d).

"(2) Continuing employment.—

- "(A) PROHIBITION ON CONTINUED EMPLOYMENT OF UNAUTHORIZED ALIENS.—It is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.
- "(B) Prohibition on consideration of Previous unauthorized status.—Nothing in this section may be construed to prohibit the employment of an individual who is authorized for employment in the United States if such individual was previously an unauthorized alien.
- "(3) USE OF LABOR THROUGH CONTRACT.—
 For purposes of this section, any employer that uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States while knowing that the alien is an unauthorized alien with respect to performing such labor shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

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"(4) Use of state employment agency DOCUMENTATION.—For purposes of paragraphs (1)(B), (5), and (6), an employer shall be deemed to have complied with the requirements under subsection (c) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Secretary) if the employer has and retains (for the period and in the manner described in subsection (c)(3) appropriate documentation of such referral by such agency, certifying that such agency has complied with the procedures described in subsection (c) with respect to the individual's referral. An employer that relies on a State agency's certification of compliance with subsection (c) under this paragraph may utilize and retain the State agency's certification of compliance with the procedures described in subsection (d), if any, in the manner provided under this paragraph.

"(5) Good faith defense.—

"(A) DEFENSE.—An employer, person, or entity that hires, employs, recruits, or refers individuals for employment in the United States, or is otherwise obligated to comply with the requirements under this section and establishes good faith compliance with the requirements

1	under paragraphs (1) through (4) of subsection
2	(c) and subsection (d)—
3	"(i) has established an affirmative de-
4	fense that the employer, person, or entity
5	has not violated paragraph (1)(A) with re-
6	spect to hiring and employing; and
7	"(ii) has established compliance with
8	its obligations under subparagraph (A) and
9	(B) of paragraph (1) and subsection (e)
10	unless the Secretary demonstrates that the
11	employer had knowledge that an individ-
12	uals hired, employed, recruited, or referred
13	by the employer, person, or entity is an un-
14	authorized alien.
15	"(B) Exception for certain employ-
16	ERS.—An employer who is not required to par-
17	ticipate in the System or who is participating in
18	the System on a voluntary basis pursuant to
19	subsection $(d)(2)(J)$ has established an affirma-
20	tive defense under subparagraph (A) and need
21	not demonstrate compliance with the require-
22	ments under subsection (d).
23	"(6) Good faith compliance.—
24	"(A) In general.—Except as otherwise
25	provided in this subsection, an employer, per-

1	son, or entity is considered to have complied
2	with a requirement under this subsection not-
3	withstanding a technical or procedural failure
4	to meet such requirement if there was a good
5	faith attempt to comply with the requirement.
6	"(B) Exception if failure to correct
7	AFTER NOTICE.—Subparagraph (A) shall not
8	apply if—
9	"(i) the failure is not de minimis;
10	"(ii) the Secretary of Homeland Secu-
11	rity has explained to the employer, person,
12	or entity the basis for the failure and why
13	it is not de minimis;
14	"(iii) the employer, person, or entity
15	has been provided a period of not less than
16	30 days (beginning after the date of the
17	explanation) to correct the failure; and
18	"(iv) the employer, person, or entity
19	has not corrected the failure voluntarily
20	within such period.
21	"(C) Exception for pattern or prac-
22	TICE VIOLATORS.—Subparagraph (A) shall not
23	apply to an employer, person, or entity that has
24	engaged or is engaging in a pattern or practice
25	of violations of paragraph (1)(A) or (2).

1	"(7) Presumption.—After the date on which
2	an employer is required to participate in the System
3	under subsection (d), the employer is presumed to
4	have acted with knowledge for purposes of para-
5	graph (1)(A) if the employer hires, employs, re-
6	cruits, or refers an employee for a fee and fails to
7	make an inquiry to verify the employment authoriza-
8	tion status of the employee through the System.
9	"(8) Continued application of workforce
10	AND LABOR PROTECTION REMEDIES DESPITE UNAU-
11	THORIZED EMPLOYMENT.—
12	"(A) In general.—Subject only to sub-
13	paragraph (B), all rights and remedies provided
14	under any Federal, State, or local law relating
15	to workplace rights, including but not limited to
16	back pay, are available to an employee de-
17	spite—
18	"(i) the employee's status as an unau-
19	thorized alien during or after the period of
20	employment; or
21	"(ii) the employer's or employee's fail-
22	ure to comply with the requirements of
23	this section.
24	"(B) REINSTATEMENT.—Reinstatement
25	shall be available to individuals who—

1	"(i) are authorized to work in the
2	United States at the time such relief is or-
3	dered or effectuated; or
4	"(ii) lost employment-authorized sta-
5	tus due to the unlawful acts of the em-
6	ployer under this section.
7	"(b) Definitions.—In this section:
8	"(1) Commissioner.—The term 'Commis-
9	sioner' means the Commissioner of Social Security.
10	"(2) Department.—Except as otherwise pro-
11	vided, the term 'Department' means the Department
12	of Homeland Security.
13	"(3) Employer.—The term 'employer' means
14	any person or entity, including an agency or depart-
15	ment of a Federal, State, or local government, an
16	agent, or a System service provider acting on behalf
17	of an employer, that hires, employs, recruits, or re-
18	fers for a fee an individual for employment in the
19	United States that is not casual, sporadic, irregular,
20	or intermittent (as defined by the Secretary).
21	"(4) Employment authorized status.—The
22	term 'employment authorized status' means, with re-
23	spect to an individual, that the individual is author-
24	ized to be employed in the United States under the
25	immigration laws of the United States.

1	"(5) Secretary.—Except as otherwise specifi-
2	cally provided, the term 'Secretary' means the Sec-
3	retary of Homeland Security.
4	"(6) System.—The term 'System' means the
5	Employment Verification System established under
6	subsection (d).
7	"(7) Unauthorized alien.—The term 'unau-
8	thorized alien' means an alien who, with respect to
9	employment in the United States at a particular
10	time—
11	"(A) is not lawfully admitted for perma-
12	nent residence; or
13	"(B) is not authorized to be employed
14	under this Act or by the Secretary.
15	"(8) Workplace rights.—The term 'work-
16	place rights' means rights guaranteed under Fed-
17	eral, State, or local labor or employment laws, in-
18	cluding laws concerning wages and hours, benefits
19	and employment standards, labor relations, work-
20	place health and safety, work-related injuries, non-
21	discrimination, and retaliation for exercising rights
22	under such laws.
23	"(c) Document Verification Requirements.—
24	Any employer hiring an individual for employment in the
25	United States shall comply with the following require-

1	ments and the requirements under subsection (d) to verify
2	that the individual has employment authorized status.
3	"(1) ATTESTATION AFTER EXAMINATION OF
4	DOCUMENTATION.—
5	"(A) IN GENERAL.—
6	"(i) Examination by employer.—
7	An employer shall attest, under penalty of
8	perjury on a form prescribed by the Sec-
9	retary, that the employer has verified the
10	identity and employment authorization sta-
11	tus of the individual—
12	"(I) by examining—
13	"(aa) a document specified
14	in subparagraph (C); or
15	"(bb) a document specified
16	in subparagraph (D) and a docu-
17	ment specified in subparagraph
18	(E); and
19	"(II) by utilizing an identity au-
20	thentication mechanism described in
21	clause (iii) or (iv) of subparagraph
22	(F).
23	"(ii) Publication of documents.—
24	The Secretary shall publish a picture of
25	each document specified in subparagraphs

1	(C) and (E) on the U.S. Citizenship and
2	Immigration Services website.
3	"(B) Requirements.—
4	"(i) FORM.—The form referred to in
5	subparagraph (A)(i)—
6	"(I) shall be prescribed by the
7	Secretary not later than 6 months
8	after the date of the enactment of the
9	Border Security, Economic Oppor-
10	tunity, and Immigration Moderniza-
11	tion Act;
12	"(II) shall be available as—
13	"(aa) a paper form;
14	"(bb) a form that may be
15	completed by an employer via
16	telephone or video conference;
17	"(ce) an electronic form; or
18	"(dd) a form that is inte-
19	grated electronically with the re-
20	quirements under subsection (d).
21	"(ii) Attestation.—Each such form
22	shall require the employer to sign an attes-
23	tation with a handwritten, electronic, or
24	digital pin code signature, according to
25	standards prescribed by the Secretary.

1	"(iii) Compliance.—An employer has
2	complied with the requirements under this
3	paragraph with respect to examination of
4	the documents included in subclauses (I)
5	and (II) of subparagraph (A)(i) if—
6	"(I) the employer has, in good
7	faith, followed applicable regulations
8	and any written procedures or instruc-
9	tions provided by the Secretary; and
10	"(II) a reasonable person would
11	conclude that the documentation is
12	genuine and relates to the individual
13	presenting such documentation.
14	"(C) Documents establishing iden-
15	TITY AND EMPLOYMENT AUTHORIZED STA-
16	Tus.—A document is specified in this subpara-
17	graph if the document is unexpired (unless the
18	validity of the document is extended by law)
19	and is 1 of the following:
20	"(i) A United States passport or pass-
21	port card issued to an individual pursuant
22	to the Secretary of State's authority under
23	the Act entitled 'An Act to regulate the
24	issue and validity of passports, and for

1	other purposes', approved July 3, 1926 (22
2	U.S.C. 211a).
3	"(ii) A document issued to an alien
4	evidencing that the alien is lawfully admit-
5	ted for permanent residence or another
6	document issued to an individual evidenc-
7	ing the individual's employment authorized
8	status, as designated by the Secretary, if
9	the document—
10	"(I) contains a photograph of the
11	individual, or such other personal
12	identifying information relating to the
13	individual as the Secretary deter-
14	mines, by regulation, to be sufficient
15	for the purposes of this subparagraph;
16	"(II) is evidence of employment
17	authorized status; and
18	"(III) contains security features
19	to make the document resistant to
20	tampering, counterfeiting, and fraudu-
21	lent use.
22	"(iii) An enhanced driver's license or
23	identification card issued to a national of
24	the United States by a State, an outlying

1	possession of the United States, or a feder-
2	ally recognized Indian tribe that—
3	"(I) meets the requirements
4	under section 202 of the REAL ID
5	Act of 2005 (division B of Public Law
6	109–13; 49 U.S.C. 30301 note); and
7	"(II) the Secretary has certified
8	by notice published in the Federal
9	Register and through appropriate no-
10	tice directly to employers registered in
11	the System 3 months prior to publica-
12	tion that such enhanced license or
13	card is suitable for use under this
14	subparagraph based upon the accu-
15	racy and security of the issuance proc-
16	ess, security features on the docu-
17	ment, and such other factors as the
18	Secretary may prescribe.
19	"(iv) A passport issued by the appro-
20	priate authority of a foreign country ac-
21	companied by a Form I-94 or Form I-
22	94A (or similar successor record), or other
23	documentation as designated by the Sec-
24	retary that specifies the individual's status
25	in the United States and the duration of

1	such status if the proposed employment is
2	not in conflict with any restriction or limi-
3	tation specified on such form or docu-
4	mentation.
5	"(v) A passport issued by the Fed-
6	erated States of Micronesia or the Repub-
7	lic of the Marshall Islands with evidence of
8	nonimmigrant admission to the United
9	States under the Compact of Free Associa-
10	tion between the United States and the
11	Federated States of Micronesia or the Re-
12	public of the Marshall Islands.
13	"(D) Documents establishing iden-
14	TITY OF INDIVIDUAL.—A document is specified
15	in this subparagraph if the document is unex-
16	pired (unless the validity of the document is ex-
17	tended by law) and is 1 of the following:
18	"(i) A driver's license or identity card
19	that is not described in subparagraph
20	(C)(iii) and is issued to an individual by a
21	State or an outlying possession of the
22	United States, a federally recognized In-
23	dian tribe, or an agency (including mili-
24	tary) of the Federal Government if the

1	driver's license or identity card includes, at
2	a minimum—
3	"(I) the individual's photograph,
4	name, date of birth, gender, and driv-
5	er's license or identification card num-
6	ber; and
7	"(II) security features to make
8	the license or card resistant to tam-
9	pering, counterfeiting, and fraudulent
10	use.
11	"(ii) A voter registration card.
12	"(iii) A document that complies with
13	the requirements under section $7209(b)(1)$
14	of the Intelligence Reform and Terrorism
15	Prevention Act of 2004 (Public Law 108–
16	458; 8 U.S.C. 1185 note).
17	"(iv) For individuals under 18 years
18	of age who are unable to present a docu-
19	ment listed in clause (i) or (ii), documenta-
20	tion of personal identity of such other type
21	as the Secretary determines will provide a
22	reliable means of identification, which may
23	include an attestation as to the individual's
24	identity by a parent or legal guardian
25	under penalty of perjury.

1	"(E) Documents evidencing employ-
2	MENT AUTHORIZATION.—A document is speci-
3	fied in this subparagraph if the document is un-
4	expired (unless the validity of the document is
5	extended by law) and is 1 of the following:
6	"(i) A social security account number
7	card issued by the Commissioner, other
8	than a card which specifies on its face that
9	the card is not valid to evidence employ-
10	ment authorized status or has other simi-
11	lar words of limitation.
12	"(ii) Any other documentation evi-
13	dencing employment authorized status that
14	the Secretary determines and publishes in
15	the Federal Register and through appro-
16	priate notice directly to employers reg-
17	istered within the System to be acceptable
18	for purposes of this subparagraph if such
19	documentation, including any electronic se-
20	curity measures linked to such documenta-
21	tion, contains security features to make
22	such documentation resistant to tam-
23	pering, counterfeiting, and fraudulent use.
24	"(F) Identity authentication mecha-
25	NISM.—

1	"(i) Definitions.—In this subpara-
2	graph:
3	"(I) COVERED IDENTITY DOCU-
4	MENT.—The term 'covered identity
5	document' means a valid—
6	"(aa) United States pass-
7	port, passport card, or a docu-
8	ment evidencing lawful perma-
9	nent residence status or employ-
10	ment authorized status issued to
11	an alien;
12	"(bb) enhanced driver's li-
13	cense or identity card issued by a
14	participating State or an outlying
15	possession of the United States;
16	or
17	"(ce) photograph and appro-
18	priate identifying information
19	provided by the Secretary of
20	State pursuant to the granting of
21	a visa.
22	"(II) Participating state.—
23	The term 'participating State' means
24	a State that has an agreement with
25	the Secretary to provide the Sec-

1	retary, for purposes of identity
2	verification in the System, with photo-
3	graphs and appropriate identifying in-
4	formation maintained by the State.
5	"(ii) Requirement for identity
6	AUTHENTICATION.—In addition to
7	verifying the documents specified in sub-
8	paragraph (C), (D), or (E) and utilizing
9	the System under subsection (d), each em-
10	ployer shall use an identity authentication
11	mechanism described in clause (iii) or pro-
12	vided in clause (iv) after it becomes avail-
13	able to verify the identity of each indi-
14	vidual the employer seeks to hire.
15	"(iii) Рното тооь.—
16	"(I) USE REQUIREMENT.—An
17	employer hiring an individual who has
18	a covered identity document shall
19	verify the identity of such individual
20	using the photo tool described in sub-
21	clause (II).
22	"(II) DEVELOPMENT REQUIRE-
23	MENT.—The Secretary shall develop
24	and maintain a photo tool that en-
25	ables employers to match the photo on

1	a covered identity document provided
2	to the employer to a photo maintained
3	by a U.S. Citizenship and Immigra-
4	tion Services database.
5	"(iv) Additional security meas-
6	URES.—
7	"(I) USE REQUIREMENT.—An
8	employer seeking to hire an individual
9	whose identity may not be verified
10	using the photo tool described in
11	clause (iii) shall verify the identity of
12	such individual using the additional
13	security measures described in sub-
14	clause (II).
15	"(II) DEVELOPMENT REQUIRE-
16	MENT.—The Secretary shall develop,
17	after publication in the Federal Reg-
18	ister and an opportunity for public
19	comment, specific and effective addi-
20	tional security measures to adequately
21	verify the identity of an individual
22	whose identity may not be verified
23	using the photo tool described in
24	clause (iii). Such additional security
25	measures—

1	"(aa) shall be kept up-to-
2	date with technological advances;
3	and
4	"(bb) shall provide a means
5	of identity authentication in a
6	manner that provides a high level
7	of certainty as to the identity of
8	such individual, using immigra-
9	tion and identifying information
10	that may include review of iden-
11	tity documents or background
12	screening verification techniques
13	using publicly available informa-
14	tion.
15	"(G) AUTHORITY TO PROHIBIT USE OF
16	CERTAIN DOCUMENTS.—If the Secretary deter-
17	mines, after publication in the Federal Register
18	and an opportunity for public comment, that
19	any document or class of documents specified in
20	subparagraph (B), (C), or (D) does not reliably
21	establish identity or that employment author-
22	ized status is being used fraudulently to an un-
23	acceptable degree, the Secretary—

1	"(i) may prohibit or restrict the use of
2	such document or class of documents for
3	purposes of this subsection; and
4	"(ii) shall directly notify all employers
5	registered within the System of the prohi-
6	bition through appropriate means.
7	"(H) Authority to allow use of cer-
8	TAIN DOCUMENTS.—If the Secretary has deter-
9	mined that another document or class of docu-
10	ments, such as a document issued by a federally
11	recognized Indian tribe, may be used to reliably
12	establish identity or employment authorized sta-
13	tus, the Secretary—
14	"(i) may allow the use of that docu-
15	ment or class of documents for purposes of
16	this subsection after publication in the
17	Federal Register and an opportunity for
18	public comment;
19	"(ii) shall publish a description of any
20	such document or class of documents on
21	the U.S. Citizenship and Immigration
22	Services website; and
23	"(iii) shall directly notify all employ-
24	ers registered within the System of the ad-
25	dition through appropriate means.

1	"(2) Individual attestation of employ-
2	MENT AUTHORIZATION.—An individual, upon com-
3	mencing employment with an employer, shall—
4	"(A) attest, under penalty of perjury, on
5	the form prescribed by the Secretary, that the
6	individual is—
7	"(i) a citizen of the United States;
8	"(ii) an alien lawfully admitted for
9	permanent residence;
10	"(iii) an alien who has employment
11	authorized status; or
12	"(iv) otherwise authorized by the Sec-
13	retary to be hired for such employment;
14	"(B) provide such attestation by a hand-
15	written, electronic, or digital pin code signature;
16	and
17	"(C) provide the individual's social security
18	account number to the Secretary, unless the in-
19	dividual has not yet been issued such a number,
20	on such form as the Secretary may require.
21	"(3) Retention of Verification Record.—
22	"(A) In general.—After completing a
23	form for an individual in accordance with para-
24	graphs (1) and (2), the employer shall retain a
25	version of such completed form and make such

1	form available for inspection by the Secretary
2	or the Office of Special Counsel for Immigra-
3	tion-Related Unfair Employment Practices of
4	the Department of Justice during the period be-
5	ginning on the hiring date of the individual and
6	ending on the later of—
7	"(i) the date that is 3 years after such
8	hiring date; or
9	"(ii) the date that is 1 year after the
10	date on which the individual's employment
11	with the employer is terminated.
12	"(B) Requirement for electronic re-
13	TENTION.—The Secretary—
14	"(i) shall permit an employer to retain
15	the form described in subparagraph (A) in
16	electronic form; and
17	"(ii) shall permit an employer to re-
18	tain such form in paper, microfiche, micro-
19	film, portable document format, or other
20	media.
21	"(4) Copying of Documentation and Rec-
22	ORDKEEPING.—The Secretary may promulgate regu-
23	lations regarding—
24	"(A) copying documents and related infor-
25	mation pertaining to employment verification

1	presented by an individual under this sub-
2	section; and
3	"(B) retaining such information during a
4	period not to exceed the required retention pe-
5	riod set forth in paragraph (3).
6	"(5) Penalties.—An employer that fails to
7	comply with any requirement under this subsection
8	may be penalized under subsection (e)(4)(B).
9	"(6) Protection of civil rights.—
10	"(A) In General.—Nothing in this sec-
11	tion may be construed to diminish any rights
12	otherwise protected by Federal law.
13	"(B) Prohibition on discrimination.—
14	An employer shall use the procedures for docu-
15	ment verification set forth in this paragraph for
16	all employees without regard to race, color, reli-
17	gion, sex, national origin, or, unless specifically
18	permitted in this section, to citizenship status.
19	"(7) Receipts.—The Secretary may authorize
20	the use of receipts for replacement documents, and
21	temporary evidence of employment authorization by
22	an individual to meet a documentation requirement
23	under this subsection on a temporary basis not to
24	exceed 1 year, after which time the individual shall

1	provide documentation sufficient to satisfy the docu-
2	mentation requirements under this subsection.
3	"(8) No authorization of national identi-
4	FICATION CARDS.—Nothing in this section may be
5	construed to directly or indirectly authorize the
6	issuance, use, or establishment of a national identi-
7	fication card.
8	"(d) Employment Verification System.—
9	"(1) In general.—
10	"(A) Establishment.—The Secretary, in
11	consultation with the Commissioner, shall es-
12	tablish the Employment Verification System.
13	"(B) Monitoring.—The Secretary shall
14	create the necessary processes to monitor—
15	"(i) the functioning of the System, in-
16	cluding the volume of the workflow, the
17	speed of processing of queries, the speed
18	and accuracy of responses;
19	"(ii) the misuse of the System, includ-
20	ing the prevention of fraud or identity
21	theft;
22	"(iii) whether the use of the System
23	results in wrongful adverse actions or dis-
24	crimination based upon a prohibited factor
25	against citizens or nationals of the United

1	States or individuals who have employment
2	authorized status; and
3	"(iv) the security, integrity, and pri-
4	vacy of the System.
5	"(C) Procedures.—The Secretary—
6	"(i) shall create processes to provide
7	an individual with direct access to the indi-
8	vidual's case history in the System, includ-
9	ing—
10	"(I) the identities of all persons
11	or entities that have queried the indi-
12	vidual through the System;
13	"(II) the date of each such
14	query; and
15	"(III) the System response for
16	each such query; and
17	"(ii) in consultation with the Commis-
18	sioner, shall develop—
19	"(I) protocols to notify an indi-
20	vidual, in a timely manner through
21	the use of electronic correspondence
22	or mail, that a query for the indi-
23	vidual has been processed through the
24	System; or

1	"(II) a process for the individual
2	to submit additional queries to the
3	System or notify the Secretary of po-
4	tential identity fraud.
5	"(2) Participation requirements.—
6	"(A) FEDERAL GOVERNMENT.—Except as
7	provided in subparagraph (B), all agencies and
8	departments in the executive, legislative, or ju-
9	dicial branches of the Federal Government shall
10	participate in the System beginning on the ear-
11	lier of—
12	"(i) the date of the enactment of the
13	Border Security, Economic Opportunity,
14	and Immigration Modernization Act, to the
15	extent required under section 402(e)(1) of
16	the Illegal Immigration Reform and Immi-
17	grant Responsibility Act of 1996 (division
18	C of Public Law 104–208; 8 U.S.C.
19	1324a) and as already implemented by
20	each agency or department; or
21	"(ii) the date that is 90 days after the
22	date of the enactment of the Border Secu-
23	rity, Economic Opportunity, and Immigra-
24	tion Modernization Act

"(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

"(C) Critical infrastructure.—

"(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

	3 1 -
1	"(ii) Notification to employ-
2	ERS.—The Secretary shall notify an em-
3	ployer required to participate in the Sys-
4	tem under this subparagraph not later
5	than 90 days before the date on which the
6	employer is required to participate.
7	"(D) Employers with more than 5,000
8	EMPLOYEES.—Not later than 2 years after reg-
9	ulations are published implementing this sub-
10	section, all employers with more than 5,000 em-
11	ployees shall participate in the System with re-
12	spect to all newly hired employees and employ-
13	ees with expiring temporary employment au-
14	thorization documents.
15	"(E) Employers with more than 500
16	EMPLOYEES.—Not later than 3 years after reg-
17	ulations are published implementing this sub-
18	section, all employers with more than 500 em-
19	ployees shall participate in the System with re-
20	spect to all newly hired employees and employ-
21	ees with expiring temporary employment au-
22	thorization documents.
23	"(F) AGRICULTURAL EMPLOYMENT.—Not
24	later than 4 years after regulations are pub-

lished implementing this subsection, employers

1	of employees performing agricultural employ-
2	ment (as defined in section 218A of this Act
3	and section 2202 of the Border Security, Eco-
4	nomic Opportunity, and Immigration Mod-
5	ernization Act) shall participate in the System
6	with respect to all newly hired employees and
7	employees with expiring temporary employment
8	authorization documents. An agricultural em-
9	ployee shall not be counted for purposes of sub-
10	paragraph (D) or (E).
11	"(G) All employers.—Except as pro-
12	vided in subparagraph (H), not later than 4
13	years after regulations are published imple-
14	menting this subsection, all employers shall par-
15	ticipate in the System with respect to all newly
16	hired employees and employees with expiring
17	temporary employment authorization docu-
18	ments.
19	"(H) Tribal Government Employ-
20	ERS.—
21	"(i) Rulemaking.—In developing
22	regulations to implement this subsection
23	the Secretary shall—

1	"(I) consider the effects of this
2	section on federally recognized Indian
3	tribes and tribal members; and
4	"(II) consult with the govern-
5	ments of federally recognized Indian
6	tribes.
7	"(ii) Required Participation.—Not
8	later than 5 years after regulations are
9	published implementing this subsection, all
10	employers owned by, or entities of, the gov-
11	ernment of a federally recognized Indian
12	tribe shall participate in the System with
13	respect to all newly hired employees and
14	employees with expiring temporary employ-
15	ment authorization documents.
16	"(I) Immigration law violators.—
17	"(i) Orders finding violations.—
18	An order finding any employer to have vio-
19	lated this section or section 274C may, in
20	the Secretary's discretion, require the em-
21	ployer to participate in the System with re-
22	spect to newly hired employees and em-
23	ployees with expiring temporary employ-
24	ment authorization documents, if such em-
25	ployer is not otherwise required to partici-

1	pate in the System under this section. The
2	Secretary shall monitor such employer's
3	compliance with System procedures.
4	"(ii) Pattern or practice of vio-
5	LATIONS.—The Secretary may require an
6	employer that is required to participate in
7	the System with respect to newly hired em-
8	ployees to participate in the System with
9	respect to the employer's current employ-
10	ees if the employer is determined by the
11	Secretary or other appropriate authority to
12	have engaged in a pattern or practice of
13	violations of the immigration laws of the
14	United States.
15	"(J) VOLUNTARY PARTICIPATION.—The
16	Secretary may permit any employer that is not
17	required to participate in the System under this
18	section to do so on a voluntary basis.
19	"(3) Consequence of failure to partici-
20	PATE.—
21	"(A) In general.—Except as provided in
22	subparagraph (B), the failure, other than a de
23	minimis or inadvertent failure, of an employer
24	that is required to participate in the System to

1	comply with the requirements of the System
2	with respect to an individual—
3	"(i) shall be treated as a violation of
4	subsection (a)(1)(B) with respect to that
5	individual; and
6	"(ii) creates a rebuttable presumption
7	that the employer has violated paragraph
8	(1)(A) or (2) of subsection (a).
9	"(B) Exception.—
10	"(i) In General.—Subparagraph (A)
11	shall not apply in a criminal prosecution.
12	"(ii) Use as evidence.—Nothing in
13	this paragraph may be construed to limit
14	the use in the prosecution of a Federal
15	crime, in a manner otherwise consistent
16	with Federal criminal law and procedure,
17	of evidence relating to the employer's fail-
18	ure to comply with requirements of the
19	System.
20	"(4) Procedures for participants in the
21	SYSTEM.—
22	"(A) In General.—An employer partici-
23	pating in the System shall register such partici-
24	pation with the Secretary and, when hiring any

1	individual for employment in the United States,
2	shall comply with the following:
3	"(i) Registration of employers.—
4	The Secretary, through notice in the Fed-
5	eral Register, shall prescribe procedures
6	that employers shall be required to follow
7	to register with the System.
8	"(ii) Updating information.—The
9	employer is responsible for providing notice
10	of any change to the information required
11	under subclauses (I), (II), and (III) of
12	clause (v) before conducting any further
13	inquiries within the System, or on such
14	other schedule as the Secretary may pre-
15	scribe.
16	"(iii) Training.—The Secretary shall
17	require employers to undergo such training
18	as the Secretary determines to be nec-
19	essary to ensure proper use, protection of
20	civil rights and civil liberties, privacy, in-
21	tegrity, and security of the System. To the
22	extent practicable, such training shall be
23	made available electronically on the U.S.
24	Citizenship and Immigration Services
25	website.

1	"(iv) Notification to employ-
2	EES.—The employer shall inform individ-
3	uals hired for employment that the Sys-
4	tem—
5	"(I) will be used by the employer;
6	"(II) may be used for immigra-
7	tion enforcement purposes; and
8	"(III) may not be used to dis-
9	criminate or to take adverse action
10	against a national of the United
11	States or an alien who has employ-
12	ment authorized status.
13	"(v) Provision of Additional in-
14	FORMATION.—The employer shall obtain
15	from the individual (and the individual
16	shall provide) and shall record in such
17	manner as the Secretary may specify—
18	"(I) the individual's social secu-
19	rity account number;
20	"(II) if the individual does not
21	attest to United States citizenship or
22	status as a national of the United
23	States under subsection $(c)(2)$, such
24	identification or authorization number

1	established by the Department as the
2	Secretary shall specify; and
3	"(III) such other information as
4	the Secretary may require to deter-
5	mine the identity and employment au-
6	thorization of an individual.
7	"(vi) Presentation of documenta-
8	TION.—The employer, and the individual
9	whose identity and employment authorized
10	status are being confirmed, shall fulfill the
11	requirements under subsection (c).
12	"(B) SEEKING CONFIRMATION.—
13	"(i) In general.—An employer shall
14	use the System to confirm the identity and
15	employment authorized status of any indi-
16	vidual during—
17	"(I) the period beginning on the
18	date on which the individual accepts
19	an offer of employment and ending 3
20	business days after the date on which
21	employment begins; or
22	"(II) such other reasonable pe-
23	riod as the Secretary may prescribe.
24	"(ii) Limitation.—An employer may
25	not make the starting date of an individ-

ual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

"(iii) REVERIFICATION—If an indi-

"(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

"(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

"(v) Notification.—

1	"(I) IN GENERAL.—The Sec-
2	retary shall provide, and the employer
3	shall utilize, as part of the System, a
4	method of notifying employers of a
5	confirmation or nonconfirmation of an
6	individual's identity and employment
7	authorized status, or a notice that
8	further action is required to verify
9	such identity or employment eligibility
10	(referred to in this subsection as a
11	'further action notice').
12	"(II) Procedures.—The Sec-
13	retary shall—
14	"(aa) directly notify the in-
15	dividual and the employer, by
16	means of electronic correspond-
17	ence, mail, text message, tele-
18	phone, or other direct commu-
19	nication, of a nonconfirmation or
20	further action notice;
21	"(bb) provide information
22	about filing an administrative ap-
23	peal under paragraph (6) and a
24	filing for review before an admin-

1	istrative law judge under para-
2	graph (7); and
3	"(cc) establish procedures to
4	directly notify the individual and
5	the employer of a confirmation.
6	"(III) Implementation.—The
7	Secretary may provide for a phased-in
8	implementation of the notification re-
9	quirements under this clause, as ap-
10	propriate. The notification system
11	shall cover all inquiries not later than
12	1 year from the date of the enactment
13	of the Border Security, Economic Op-
14	portunity, and Immigration Mod-
15	ernization Act.
16	"(C) Confirmation or nonconfirma-
17	TION.—
18	"(i) Initial response.—
19	"(I) IN GENERAL.—Except as
20	provided in subclause (II), the System
21	shall provide—
22	"(aa) a confirmation of an
23	individual's identity and employ-
24	ment authorized status or a fur-

1	ther action notice at the time of
2	the inquiry; and
3	"(bb) an appropriate code
4	indicating such confirmation or
5	such further action notice.
6	"(II) ALTERNATIVE DEAD-
7	LINE.—If the System is unable to
8	provide immediate confirmation or
9	further action notice for technological
10	reasons or due to unforeseen cir-
11	cumstances, the System shall provide
12	a confirmation or further action notice
13	not later than 3 business days after
14	the initial inquiry.
15	"(ii) Confirmation upon initial
16	INQUIRY.—If the employer receives an ap-
17	propriate confirmation of an individual's
18	identity and employment authorized status
19	under the System, the employer shall
20	record the confirmation in such manner as
21	the Secretary may specify.
22	"(iii) Further action notice and
23	LATER CONFIRMATION OR NONCONFIRMA-
24	TION —

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"(I) NOTIFICATION AND AC-KNOWLEDGMENT THAT FURTHER AC-TION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the

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receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

"(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit

1	in any way an employee's right to ap-
2	peal a nonconfirmation.
3	"(III) No contest.—If the indi-
4	vidual refuses to acknowledge receipt
5	of the further action notice, acknowled
6	edges that the individual will not con-
7	test the further action notice as pro-
8	vided in subclause (I), or does not
9	contact the appropriate Federal agen-
10	cy within the period specified in sub-
11	clause (II), following expiration of the
12	period specified in subclause (II), a
13	nonconfirmation shall be issued. The
14	employer shall record the noncon-
15	firmation in such manner as the Sec
16	retary may specify and terminate the
17	individual's employment. An individ-
18	ual's failure to contest a further ac
19	tion notice shall not be considered ar
20	admission of guilt with respect to any
21	violation of this section or any provi-
22	sion of law.
23	"(IV) CONFIRMATION OR NON-
24	CONFIRMATION.—Unless the period is
25	extended in accordance with this sub-

1	clause, the System shall provide a
2	confirmation or nonconfirmation not
3	later than 10 business days after the
4	date on which the individual contests
5	the further action notice under sub-
6	clause (II). If the Secretary deter-
7	mines that good cause exists, after
8	taking into account adverse impacts
9	to the employer, and including time to
10	permit the individual to obtain and
11	provide needed evidence of identity or
12	employment eligibility, the Secretary
13	shall extend the period for providing
14	confirmation or nonconfirmation for
15	stated periods beyond 10 business
16	days. When confirmation or noncon-
17	firmation is provided, the confirma-
18	tion system shall provide an appro-
19	priate code indicating such confirma-
20	tion or nonconfirmation.
21	"(V) REEXAMINATION.—Nothing
22	in this section shall prevent the Sec
23	retary from establishing procedures to
24	reexamine a case where a confirma

tion or nonconfirmation has been pro-

1	vided if subsequently received infor-
2	mation indicates that the confirmation
3	or nonconfirmation may not have been
4	correct. Any procedures for reexam-
5	ination shall not limit in any way an
6	employee's right to appeal a noncon-
7	firmation.
8	"(VI) EMPLOYEE PROTEC-
9	TIONS.—An employer may not termi-
10	nate employment or take any other
11	adverse action against an individual
12	solely because of a failure of the indi-
13	vidual to have identity and employ-
14	ment eligibility confirmed under this
15	subsection until—
16	"(aa) a nonconfirmation has
17	been issued;
18	"(bb) if the further action
19	notice was contested, the period
20	to timely file an administrative
21	appeal has expired without an
22	appeal or the contestation to the
23	further action notice is with-
24	drawn; or

1 "(cc) if an appeal before an
2 administrative law judge under
3 paragraph (7) has been filed, the
4 nonconfirmation has been upheld
5 or the appeal has been withdrawn
6 or dismissed.

"(iv) NOTICE OF NONCONFIRMA-TION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in

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1	such other manner as the Secretary may
2	prescribe, the receipt of the nonconfirma-
3	tion notice from the employer. If the indi-
4	vidual refuses or fails to acknowledge the
5	receipt of the nonconfirmation notice, the
6	employer shall notify the Secretary in such
7	manner as the Secretary may prescribe.
8	"(D) Consequences of Nonconfirma-
9	TION.—
10	"(i) TERMINATION OF CONTINUED
11	EMPLOYMENT.—Except as provided in
12	clause (iii), an employer that has received
13	a nonconfirmation regarding an individual
14	and has made reasonable efforts to notify
15	the individual in accordance with subpara-
16	graph (C)(iv) shall terminate the employ-
17	ment of the individual upon the expiration
18	of the time period specified in paragraph
19	(7).
20	"(ii) Continued Employment
21	AFTER NONCONFIRMATION.—If the em-
22	ployer continues to employ an individual
23	after receiving nonconfirmation and ex-
24	haustion of all appeals or expiration of all
25	rights to appeal if not appealed, in viola-

1	tion of clause (i), a rebuttable presumption
2	is created that the employer has violated
3	paragraphs (1)(A) and (2) of subsection
4	(a). Such presumption shall not apply in
5	any prosecution under subsection $(k)(1)$.
6	"(iii) Effect of administrative
7	APPEAL OR REVIEW BY ADMINISTRATIVE
8	LAW JUDGE.—If an individual files an ad-
9	ministrative appeal of the nonconfirmation
10	within the time period specified in para-
11	graph (6)(A), or files for review with an
12	administrative law judge specified in para-
13	graph (7)(A), the employer shall not termi-
14	nate the individual's employment under
15	this subparagraph prior to the resolution
16	of the administrative appeal unless the
17	Secretary or Commissioner terminates the
18	stay under paragraph $(6)(B)$ or $(7)(B)$.
19	"(iv) Weekly report.—The Direc-
20	tor of U.S. Citizenship and Immigration
21	Services shall submit a weekly report to
22	the Assistant Secretary for Immigration
23	and Customs Enforcement that includes,
24	for each individual who receives final non-

confirmation through the System—

1	"(I) the name of such individual;
2	"(II) his or her social security
3 nur	mber or alien file number;
4	"(III) the name and contact in-
5 form	mation for his or her current em-
6 ploy	yer; and
7	"(IV) any other critical informa-
8 tion	n that the Assistant Secretary de-
9 terr	mines to be appropriate.
10 "(E) Or	BLIGATION TO RESPOND TO QUE-
11 RIES AND AD	DITIONAL INFORMATION.—
12 "(i)	IN GENERAL.—Employers shall
comply v	with requests for information from
14 the Secr	retary and the Special Counsel for
15 Immigra	ation-Related Unfair Employment
16 Practice	s of the Department of Justice, in-
17 cluding	queries concerning current and
18 former	employees, within the time frame
19 during	which records are required to be
20 maintair	ned under this section regarding
21 such for	mer employees, if such information
22 relates 1	to the functioning of the System,
23 the accu	aracy of the responses provided by
24 the Syst	tem, or any suspected misuse, dis-
25 criminat	ion, fraud, or identity theft in the

1	use of the System. Failure to comply with
2	a request under this clause constitutes a
3	violation of subsection (a)(1)(B).
4	"(ii) Action by individuals.—
5	"(I) In general.—Individuals
6	being verified through the System
7	may be required to take further action
8	to address questions identified by the
9	Secretary or the Commissioner re-
10	garding the documents relied upon for
11	purposes of subsection (c).
12	"(II) NOTIFICATION.—Not later
13	than 3 business days after the receipt
14	of such questions regarding an indi-
15	vidual, or during such other reason-
16	able time as the Secretary may pre-
17	scribe, the employer shall—
18	"(aa) notify the individual of
19	any such requirement for further
20	actions; and
21	"(bb) record the date and
22	manner of such notification.
23	"(III) ACKNOWLEDGMENT.—The
24	individual shall acknowledge the noti-
25	fication received from the employer

1	under subclause (II) in writing, or in
2	such other manner as the Secretary
3	may prescribe.
4	"(iii) Rulemaking.—
5	"(I) IN GENERAL.—The Sec-
6	retary, in consultation with the Com-
7	missioner and the Attorney General,
8	is authorized to issue regulations im-
9	plementing, clarifying, and
10	supplementing the requirements under
11	this subparagraph—
12	"(aa) to facilitate the func-
13	tioning, accuracy, and fairness of
14	the System;
15	"(bb) to prevent misuse, dis-
16	crimination, fraud, or identity
17	theft in the use of the System; or
18	"(cc) to protect and main-
19	tain the confidentiality of infor-
20	mation that could be used to lo-
21	cate or otherwise place at risk of
22	harm victims of domestic vio-
23	lence, dating violence, sexual as-
24	sault, stalking, and human traf-
25	ficking, and of the applicant or

1	beneficiary of any petition de-
2	scribed in section $384(a)(2)$ of
3	the Illegal Immigration Reform
4	and Immigrant Responsibility
5	Act of 1996 (8 U.S.C.
6	1367(a)(2)).
7	"(II) Notice.—The regulations
8	issued under subclause (I) shall be—
9	"(aa) published in the Fed-
10	eral Register; and
11	"(bb) provided directly to all
12	employers registered in the Sys-
13	tem.
14	"(F) Designated Agents.—The Sec-
15	retary shall establish a process—
16	"(i) for certifying, on an annual basis
17	or at such times as the Secretary may pre-
18	scribe, designated agents and other System
19	service providers seeking access to the Sys-
20	tem to perform verification queries on be-
21	half of employers, based upon training,
22	usage, privacy, and security standards pre-
23	scribed by the Secretary;
24	"(ii) for ensuring that designated
25	agents and other System service providers

1	are subject to monitoring to the same ex-
2	tent as direct access users; and
3	"(iii) for establishing standards for
4	certification of electronic I-9 programs.
5	"(G) Requirement to provide infor-
6	MATION.—
7	"(i) In general.—No later than 3
8	months after the date of the enactment of
9	the Border Security, Economic Oppor-
10	tunity, and Immigration Modernization
11	Act, the Secretary, in consultation with the
12	Secretary of Labor, the Secretary of Agri-
13	culture, the Commissioner, the Attorney
14	General, the Equal Employment Oppor-
15	tunity Commission, and the Administrator
16	of the Small Business Administration,
17	shall commence a campaign to disseminate
18	information respecting the procedures,
19	rights, and remedies prescribed under this
20	section.
21	"(ii) Campaign requirements.—
22	The campaign authorized under clause
23	(i)—
24	"(I) shall be aimed at increasing
25	the knowledge of employers, employ-

1	ees, and the general public concerning
2	employer and employee rights, respon-
3	sibilities, and remedies under this sec-
4	tion; and
5	"(II) shall be coordinated with
6	the public education campaign con-
7	ducted by U.S. Citizenship and Immi-
8	gration Services.
9	"(iii) Assessment.—The Secretary
10	shall assess the success of the campaign in
11	achieving the goals of the campaign.
12	"(iv) Authority to contract.—In
13	order to carry out and assess the campaign
14	under this subparagraph, the Secretary
15	may, to the extent deemed appropriate and
16	subject to the availability of appropria-
17	tions, contract with public and private or-
18	ganizations for outreach and assessment
19	activities under the campaign.
20	"(v) Authorization of Appropria-
21	TIONS.—There are authorized to be appro-
22	priated to carry out this paragraph
23	\$40,000,000 for each of the fiscal years
24	2014 through 2016.

1	"(H) Authority to modify informa-
2	TION REQUIREMENTS.—Based on a regular re-
3	view of the System and the document
4	verification procedures to identify misuse or
5	fraudulent use and to assess the security of the
6	documents and processes used to establish iden-
7	tity or employment authorized status, the Sec-
8	retary, in consultation with the Commissioner,
9	after publication of notice in the Federal Reg-
10	ister and an opportunity for public comment,
11	may modify, if the Secretary determines that
12	the modification is necessary to ensure that the
13	System accurately and reliably determines the
14	identity and employment authorized status of
15	employees and maintain existing protections
16	against misuse, discrimination, fraud, and iden-
17	tity theft—
18	"(i) the information that shall be pre-
19	sented to the employer by an individual;
20	"(ii) the information that shall be pro-
21	vided to the System by the employer; and
22	"(iii) the procedures that shall be fol-
23	lowed by employers with respect to the
24	process of verifying an individual through
25	the System.

"(I) Self-Verification.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

"(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

"(6) Administrative appeal.—

"(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by

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the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

> "(B) Administrative stay of nonconfirmation.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

> "(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not

previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

- "(D) PREPONDERANCE OF EVIDENCE.—
 Administrative appeal under this paragraph shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.
- "(E) Damages, fees, and costs.—No money damages, fees or costs may be awarded in the administrative appeal process under this paragraph.
- 23 "(7) REVIEW BY ADMINISTRATIVE LAW 24 JUDGE.—

1	"(A) IN GENERAL.—Not later than 30
2	days after the date an individual receives a final
3	determination on an administrative appeal
4	under paragraph (6), the individual may obtain
5	review of such determination by filing a com-
6	plaint with a Department of Justice administra-
7	tive law judge in accordance with this para-
8	graph.

- "(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.
- "(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.
- 24 "(D) AUTHORITY OF ADMINISTRATIVE 25 LAW JUDGE.—

1	"(i) Rules of practice.—The Sec-
2	retary shall promulgate regulations regard-
3	ing the rules of practice in appeals brought
4	pursuant to this subsection.
5	"(ii) Authority of administrative
6	LAW JUDGE.—The administrative law
7	judge shall have power to—
8	"(I) terminate a stay of a non-
9	confirmation under subparagraph (B)
10	if the administrative law judge deter-
11	mines that the action is frivolous or
12	filed for purposes of delay;
13	"(II) adduce evidence at a hear-
14	ing;
15	"(III) compel by subpoena the
16	attendance of witnesses and the pro-
17	duction of evidence at any designated
18	place or hearing;
19	"(IV) resolve claims of identity
20	theft; and
21	"(V) enter, upon the pleadings
22	and any evidence adduced at a hear-
23	ing, a decision affirming or reversing
24	the result of the agency, with or with-

1	out remanding the cause for a rehear-
2	ing.
3	"(iii) Subpoena.—In case of contu-
4	macy or refusal to obey a subpoena law-
5	fully issued under this section and upon
6	application of the administrative law judge,
7	an appropriate district court of the United
8	States may issue an order requiring com-
9	pliance with such subpoena and any failure
10	to obey such order may be punished by
11	such court as a contempt of such court.
12	"(iv) Training.—An administrative
13	law judge hearing cases shall have special
14	training respecting employment authorized
15	status verification.
16	"(E) Order by administrative law
17	JUDGE.—
18	"(i) In General.—The administra-
19	tive law judge shall issue and cause to be
20	served to the parties in the proceeding an
21	order which may be appealed as provided
22	in subparagraph (G).
23	"(ii) Contents of order.—Such an
24	order shall uphold or reverse the final de-
25	termination on the request for reconsider-

1	ation and order lost wages and other ap-
2	propriate remedies as provided in subpara-
3	graph (F).
4	"(F) Compensation for Error.—
5	"(i) In general.—In cases in which
6	the administrative law judge reverses the
7	final determination of the Secretary or the
8	Commissioner made under paragraph (6),
9	and the administrative law judge finds
10	that—
11	"(I) the nonconfirmation was due
12	to gross negligence or intentional mis-
13	conduct of the employer, the adminis-
14	trative law judge may order the em-
15	ployer to pay the individual lost
16	wages, and reasonable costs and attor-
17	neys' fees incurred during administra-
18	tive and judicial review; or
19	"(II) such final determination
20	was erroneous by reason of the neg-
21	ligence of the Secretary or the Com-
22	missioner, the administrative law
23	judge may order the Secretary or the
24	Commissioner to pay the individual
25	lost wages, and reasonable costs and

1 attorneys' fees incurred during the ad-2 ministrative appeal and the adminis-3 trative law judge review.

> "(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

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1	"(iii) Payment of compensation.—
2	Notwithstanding any other law, payment of
3	compensation for lost wages, costs, and at-
4	torneys' fees under this paragraph, or com-
5	promise settlements of the same, shall be
6	made as provided by section 1304 of title
7	31, United States Code. Appropriations
8	made available to the Secretary or the
9	Commissioner, accounts provided for under
10	section 286, and funds from the Federal
11	Old-Age and Survivors Insurance Trust
12	Fund or the Federal Disability Insurance
13	Trust Fund shall not be available to pay
14	such compensation.
15	"(G) Appeal.—No later than 45 days
16	after the entry of such final order, any person
17	adversely affected by such final order may seek
18	review of such order in the United States Court
19	of Appeals for the circuit in which the violation
20	is alleged to have occurred or in which the em-
21	ployer resides or transacts business.
22	"(8) Management of the system.—
23	"(A) In General.—The Secretary is au-
24	thorized to establish, manage, and modify the
25	System, which shall—

1	"(i) respond to inquiries made by par-
2	ticipating employers at any time through
3	the internet, or such other means as the
4	Secretary may designate, concerning an in-
5	dividual's identity and whether the indi-
6	vidual is in employment authorized status;
7	"(ii) maintain records of the inquiries
8	that were made, of confirmations provided
9	(or not provided), and of the codes pro-
10	vided to employers as evidence of their
11	compliance with their obligations under the
12	System; and
13	"(iii) provide information to, and re-
14	quire action by, employers and individuals
15	using the System.
16	"(B) DESIGN AND OPERATION OF SYS-
17	TEM.—The System shall be designed and oper-
18	ated—
19	"(i) to maximize its reliability and
20	ease of use by employers consistent with
21	protecting the privacy and security of the
22	underlying information, and ensuring full
23	notice of such use to employees;
24	"(ii) to maximize its ease of use by
25	employees, including direct notification of

1	its use, of results, and ability to challenge
2	results;
3	"(iii) to respond accurately to all in-
4	quiries made by employers on whether in-
5	dividuals are authorized to be employed
6	and to register any times when the system
7	is unable to receive inquiries;
8	"(iv) to maintain appropriate adminis-
9	trative, technical, and physical safeguards
10	to prevent unauthorized disclosure of per-
11	sonal information, misuse by employers
12	and employees, and discrimination;
13	"(v) to require regularly scheduled re-
14	fresher training of all users of the System
15	to ensure compliance with all procedures;
16	"(vi) to allow for auditing of the use
17	of the System to detect misuse, discrimina-
18	tion, fraud, and identity theft, to protect
19	privacy and assess System accuracy, and
20	to preserve the integrity and security of
21	the information in all of the System, in-
22	cluding—
23	"(I) to develop and use tools and
24	processes to detect or prevent fraud
25	and identity theft, such as multiple

1	uses of the same identifying informa-
2	tion or documents to fraudulently gain
3	employment;
4	"(II) to develop and use tools
5	and processes to detect and prevent
6	misuse of the system by employers
7	and employees;
8	"(III) to develop tools and proc-
9	esses to detect anomalies in the use of
10	the system that may indicate potential
11	fraud or misuse of the system;
12	"(IV) to audit documents and in-
13	formation submitted by employees to
14	employers, including authority to con-
15	duct interviews with employers and
16	employees, and obtain information
17	concerning employment from the em-
18	ployer;
19	"(vii) to confirm identity and employ-
20	ment authorization through verification
21	and comparison of records as determined
22	necessary by the Secretary;
23	"(viii) to confirm electronically the
24	issuance of the employment authorization
25	or identity document and—

1	"(I) if such photograph is avail-
2	able, to display the digital photograph
3	that the issuer placed on the docu-
4	ment so that the employer can com-
5	pare the photograph displayed to the
6	photograph on the document pre-
7	sented by the employee; or
8	"(II) if a photograph is not avail-
9	able from the issuer, to confirm the
10	authenticity of the document using
11	such alternative procedures as the
12	Secretary may specify; and
13	"(ix) to provide appropriate notifica-
14	tion directly to employers registered with
15	the System of all changes made by the
16	Secretary or the Commissioner related to
17	allowed and prohibited documents, and use
18	of the System.
19	"(C) Safeguards to the system.—
20	"(i) Requirement to develop.—
21	The Secretary, in consultation with the
22	Commissioner and other appropriate Fed-
23	eral and State agencies, shall develop poli-
24	cies and procedures to ensure protection of
25	the privacy and security of personally iden-

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tifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

"(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

"(iii) Accuracy audits.—

1	"(I) In General.—Not later
2	than November 30 of each year, the
3	Inspector General of the Department
4	of Homeland Security shall submit a
5	report to the Secretary, with a copy to
6	the President of the Senate and the
7	Speaker of the House of Representa-
8	tives, that sets forth the error rate of
9	the System for the previous fiscal year
10	and the assessments required to be
11	submitted by the Secretary under sub-
12	paragraphs (A) and (B) of paragraph
13	(10). The report shall describe in de-
14	tail the methodology employed for
15	purposes of the report, and shall make
16	recommendations for how error rates
17	may be reduced.
18	"(II) Error rate defined.—In
19	this clause, the term 'error rate'
20	means the percentage determined by
21	dividing—
22	"(aa) the number of employ-
23	ment authorized individuals who
24	received further action notices,
25	contested such notices, and were

subsequently found to be emp	oloy-
ment authorized; by	
"(bb) the number of Sys	stem
inquiries submitted for emp	oloy-
ment authorized individuals.	
"(III) REDUCTION OF PENAL	TIES
FOR RECORDKEEPING	OR
VERIFICATION PRACTICES FOLLOW	VING
PERSISTENT SYSTEM INACCU	URA-
CIES.—Notwithstanding subsec	etion
(e)(4)(C)(i), in any calendar year	fol-
lowing a report by the Inspector of	Gen-
eral under subclause (I) that the	Sys-
tem had an error rate higher than	0.3
percent for the previous fiscal y	vear,
the civil penalty assessable by the	Sec-
retary or an administrative law ju	adge
under that subsection for each f	irst-
time violation by an employer who	has
not previously been penalized u	nder
this section may not exceed \$1,000).
"(iv) Records security 1	PRO-
GRAM.—Any person, including a pri	vate
third party vendor, who retains docur	nent
verification or System data pursuan	t to

1	this section shall implement an effective
2	records security program that—
3	"(I) ensures that only authorized
4	personnel have access to document
5	verification or System data; and
6	"(II) ensures that whenever such
7	data is created, completed, updated,
8	modified, altered, or corrected in elec-
9	tronic format, a secure and perma-
10	nent record is created that establishes
11	the date of access, the identity of the
12	individual who accessed the electronic
13	record, and the particular action
14	taken.
15	"(v) Records Security Program.—
16	In addition to the security measures de-
17	scribed in clause (iv), a private third party
18	vendor who retains document verification
19	or System data pursuant to this section
20	shall implement an effective records secu-
21	rity program that—
22	"(I) provides for backup and re-
23	covery of any records maintained in
24	electronic format to protect against

1	information loss, such as power inter-
2	ruptions; and
3	"(II) ensures that employees are
4	trained to minimize the risk of unau-
5	thorized or accidental alteration or
6	erasure of such data in electronic for-
7	mat.
8	"(vi) Authorized personnel de-
9	FINED.—In this subparagraph, the term
10	'authorized personnel' means anyone reg-
11	istered as a System user, or anyone with
12	partial or full responsibility for completion
13	of employment authorization verification or
14	retention of data in connection with em-
15	ployment authorization verification on be-
16	half of an employer.
17	"(D) AVAILABLE FACILITIES AND ALTER-
18	NATIVE ACCOMMODATIONS.—The Secretary
19	shall make appropriate arrangements and de-
20	velop standards to allow employers or employ-
21	ees, including remote hires, who are otherwise
22	unable to access the System to use electronic
23	and telephonic formats (including video confer-
24	encing, scanning technology, and other available
25	technologies), Federal Government facilities,

1	public facilities, or other available locations in
2	order to utilize the System.

"(E) RESPONSIBILITIES OF THE SEC-RETARY.—

"(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

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1	"(ii) Photograph display.—As part
2	of the System, the Secretary shall establish
3	a reliable, secure method, which, operating
4	through the System, displays the digital
5	photograph described in subparagraph
6	(B)(viii)(I).
7	"(iii) Timing of notices.—The Sec-
8	retary shall have authority to prescribe
9	when a confirmation, nonconfirmation, or
10	further action notice shall be issued.
11	"(iv) USE OF INFORMATION.—The
12	Secretary shall perform regular audits
13	under the System, as described in subpara-
14	graph (B)(vi) and shall utilize the informa-
15	tion obtained from such audits, as well as
16	any information obtained from the Com-
17	missioner pursuant to part E of title XI of
18	the Social Security Act (42 U.S.C. 1301 et
19	seq.), for the purposes of this section and
20	to administer and enforce the immigration
21	laws.
22	"(v) Identity fraud protection.—
23	To prevent identity fraud, not later than
24	18 months after the date of the enactment
25	of the Border Security, Economic Oppor-

1	tunity, and Immigration Modernization
2	Act, the Secretary shall—
3	"(I) in consultation with the
4	Commissioner, establish a program to
5	provide a reliable, secure method for
6	an individual to temporarily suspend
7	or limit the use of the individual's so-
8	cial security account number or other
9	identifying information for verification
10	by the System; and
11	"(II) for each individual being
12	verified through the System—
13	"(aa) notify the individual
14	that the individual has the option
15	to limit the use of the individ-
16	ual's social security account num-
17	ber or other identifying informa-
18	tion for verification by the Sys-
19	tem; and
20	"(bb) provide instructions to
21	the individuals for exercising the
22	option referred to in item (aa).
23	"(vi) Allowing parents to pre-
24	VENT THEFT OF THEIR CHILD'S IDEN-
25	TITY.—The Secretary, in consultation with

1 the Commissioner, shall establish a pro-2 gram that provides a reliable, secure method by which parents or legal guardians 3 4 may suspend or limit the use of the social security account number or other identi-6 fying information of a minor under their 7 care for the purposes of the System. The 8 Secretary may implement the program on 9 a limited pilot program basis before making it fully available to all individuals. 10 11 "(vii) Protection from multiple USE.—The Secretary and the Commis-12 13 sioner shall establish a procedure for iden-14 tifying and handling a situation in which a 15 social security account number has been 16 identified to be subject to unusual multiple 17 use in the System or is otherwise suspected 18 or determined to have been compromised 19 by identity fraud. 20 "(viii) Monitoring and compliance UNIT.—The Secretary shall establish or 21 22 designate a monitoring and compliance

unit to detect and reduce identity fraud

and other misuse of the System.

23

1	"(ix) Civil rights and civil lib-
2	ERTIES ASSESSMENTS.—
3	"(I) Requirement to con-
4	DUCT.—The Secretary shall conduct
5	regular civil rights and civil liberties
6	assessments of the System, including
7	participation by employers, other pri-
8	vate entities, and Federal, State, and
9	local government entities.
10	"(II) REQUIREMENT TO RE-
11	SPOND.—Employers, other private en-
12	tities, and Federal, State, and local
13	entities shall timely respond to any re-
14	quest in connection with such an as-
15	sessment.
16	"(III) Assessment and Rec-
17	OMMENDATIONS.—The Officer for
18	Civil Rights and Civil Liberties of the
19	Department shall review the results of
20	each such assessment and recommend
21	to the Secretary any changes nec-
22	essary to improve the civil rights and
23	civil liberties protections of the Sys-
24	tem.
25	"(F) Grants to states.—

1	"(i) In General.—The Secretary
2	shall create and administer a grant pro-
3	gram to help provide funding for States
4	that grant—
5	"(I) the Secretary access to driv-
6	er's license information as needed to
7	confirm that a driver's license pre-
8	sented under subsection $(c)(1)(D)(i)$
9	confirms the identity of the subject of
10	the System check, and that a driver's
11	license matches the State's records;
12	and
13	"(II) such assistance as the Sec-
14	retary may request in order to resolve
15	further action notices or nonconfirma-
16	tions relating to such information.
17	"(ii) Construction with the driv-
18	ER'S PRIVACY PROTECTION ACT OF 1994.—
19	The provision of a photograph to the Sec-
20	retary as described in clause (i) may not be
21	construed as a violation of section 2721 of
22	title 18, United States Code, and is a per-
23	missible use under subsection $(b)(1)$ of
24	that section.

1	"(iii) Authorization of Appropria-
2	TIONS.—There is authorized to be appro-
3	priated to the Secretary \$250,000,000 to
4	carry out this subparagraph.
5	"(G) Responsibilities of the sec-
6	RETARY OF STATE.—As part of the System, the
7	Secretary of State shall provide to the Sec-
8	retary access to passport and visa information
9	as needed to confirm that a passport, passport
10	card, or visa presented under subsection
11	(c)(1)(C) confirms the identity of the subject of
12	the System check, and that a passport, passport
13	card, or visa photograph matches the Secretary
14	of State's records, and shall provide such assist-
15	ance as the Secretary may request in order to
16	resolve further action notices or nonconfirma-
17	tions relating to such information.
18	"(H) UPDATING INFORMATION.—The
19	Commissioner, the Secretary, and the Secretary
20	of State shall update their information in a
21	manner that promotes maximum accuracy and
22	shall provide a process for the prompt correc-
23	tion of erroneous information.
24	"(9) Limitation on use of the system.—
25	Notwithstanding any other provision of law, nothing

in this subsection may be construed to permit or allow any department, bureau, or other agency of the United States Government or any other entity to utilize any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and nondiscriminatory use of the System.

"(10) Annual Report and Certification.—
Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

"(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

"(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates

1	of further action notices and other System no-
2	tices provided directly (by the System) in a
3	timely fashion to individuals who are not au-
4	thorized to be employed in the United States.
5	"(C) An assessment of any challenges
6	faced by small employers in utilizing the Sys-
7	tem.
8	"(D) An assessment of the rate of em-
9	ployer noncompliance (in addition to failure to
10	provide required notices in a timely fashion) in
11	each of the following categories:
12	"(i) Taking adverse action based on a
13	further action notice.
14	"(ii) Use of the System for non-
15	employees or other individuals before they
16	are offered employment.
17	"(iii) Use of the System to reverify
18	employment authorized status of current
19	employees except if authorized to do so.
20	"(iv) Use of the System selectively,
21	except in cases in which such use is au-
22	thorized.
23	"(v) Use of the System to deny em-
24	ployment or post-employment benefits or
25	otherwise interfere with labor rights.

1	"(vi) Requiring employees or appli-
2	cants to use any self-verification feature or
3	to provide self-verification results.
4	"(vii) Discouraging individuals who
5	receive a further action notice from chal-
6	lenging the further action notice or appeal-
7	ing a determination made by the System
8	"(E) An assessment of the rate of em-
9	ployee noncompliance in each of the following
10	categories:
11	"(i) Obtaining employment when un-
12	authorized with an employer complying
13	with the System in good faith.
14	"(ii) Failure to provide required docu-
15	ments in a timely manner.
16	"(iii) Attempting to use fraudulent
17	documents or documents not related to the
18	individual.
19	"(iv) Misuse of the administrative ap-
20	peal and judicial review process.
21	"(F) An assessment of the amount of time
22	taken for—
23	"(i) the System to provide the con-
24	firmation or further action notice;

1	"(ii) individuals to contest further ac-
2	tion notices;
3	"(iii) the System to provide a con-
4	firmation or nonconfirmation of a con-
5	tested further action notice;
6	"(iv) individuals to file an administra-
7	tive appeal of a nonconfirmation; and
8	"(v) resolving administrative appeals
9	regarding nonconfirmations.
10	"(11) Annual gao study and report.—
11	"(A) REQUIREMENT.—The Comptroller
12	General shall, for each year, undertake a study
13	to evaluate the accuracy, efficiency, integrity,
14	and impact of the System.
15	"(B) Report.—Not later than 18 months
16	after the promulgation of regulations to imple-
17	ment this subsection, and yearly thereafter, the
18	Comptroller General shall submit to Congress a
19	report containing the findings of the study car-
20	ried out under this paragraph. Each such re-
21	port shall include, at a minimum, the following:
22	"(i) An assessment of System per-
23	formance with respect to the rate at which
24	individuals who are eligible for employment
25	in the United States are correctly approved

1	within the required periods, including a
2	separate assessment of such rate for natu-
3	ralized United States citizens, nationals of
4	the United States, and aliens.
5	"(ii) An assessment of the privacy and
6	confidentiality of the System and of the
7	overall security of the System with respect
8	to cybertheft and theft or misuse of private
9	data.
10	"(iii) An assessment of whether the
11	System is being implemented in a manner
12	that is not discriminatory or used for retal-
13	iation against employees.
14	"(iv) An assessment of the most com-
15	mon causes for the erroneous issuance of
16	nonconfirmations by the System and rec-
17	ommendations to correct such causes.
18	"(v) The recommendations of the
19	Comptroller General regarding System im-
20	provements.
21	"(vi) An assessment of the frequency
22	and magnitude of changes made to the
23	System and the impact on the ability for
24	employers to comply in good faith.

1	"(vii) An assessment of the direct and
2	indirect costs incurred by employers in
3	complying with the System, including costs
4	associated with retaining potential employ-
5	ees through the administrative appeals
6	process and receiving a nonconfirmation.
7	"(viii) An assessment of any backlogs
8	or delays in the System providing the con-
9	firmation or further action notice and im-
10	pacts to hiring by employers.
11	"(e) Compliance.—
12	"(1) Complaints and investigations.—The
13	Secretary shall establish procedures—
14	"(A) for individuals and entities to file
15	complaints respecting potential violations of
16	subsections (a) or $(f)(1)$;
17	"(B) for the investigation of those com-
18	plaints which the Secretary deems appropriate
19	to investigate; and
20	"(C) for providing notification to the Spe-
21	cial Counsel for Immigration-Related Unfair
22	Employment Practices of the Department of
23	Justice of potential violations of section 274B.

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"(2) Authority	IN IN	VESTIGATION	ıs.—In	con-
ducting	investigations	and	proceedings	under	this
subsecti	on—				

"(A) immigration officers shall have reasonable access to examine evidence of the employer being investigated;

"(B) immigration officers designated by the Secretary, and administrative law judges and other persons authorized to conduct proceedings under this section, may compel by subpoena the attendance of relevant witnesses and the production of relevant evidence at any designated place in an investigation or case under this subsection. In case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt. Failure to cooperate with the subpoena shall be subject to further penalties, including further fines and the voiding of any mitigation of penalties or termi-

1	nation of proceedings under paragraph (4)(E);
2	and
3	"(C) the Secretary, in cooperation with the
4	Commissioner and Attorney General, and in
5	consultation with other relevant agencies, shall
6	establish a Joint Employment Fraud Task
7	Force consisting of, at a minimum—
8	"(i) the System's compliance per-
9	sonnel;
10	"(ii) immigration law enforcement of-
11	ficers;
12	"(iii) personnel of the Office of Spe-
13	cial Counsel for Immigration-Related Un-
14	fair Employment Practices of the Depart-
15	ment of Justice;
16	"(iv) personnel of the Office for Civil
17	Rights and Civil Liberties of the Depart-
18	ment; and
19	"(v) personnel of Office of Inspector
20	General of the Social Security Administra-
21	tion.
22	"(3) Compliance procedures.—
23	"(A) Pre-penalty notice.—If the Sec-
24	retary has reasonable cause to believe that
25	there has been a civil violation of this section in

1	the previous 3 years, the Secretary shall issue
2	to the employer concerned a written notice of
3	the Department's intention to issue a claim for
4	a monetary or other penalty. Such pre-penalty
5	notice shall—
6	"(i) describe the violation;
7	"(ii) specify the laws and regulations
8	allegedly violated;
9	"(iii) disclose the material facts which
10	establish the alleged violation;
11	"(iv) describe the penalty sought to be
12	imposed; and
13	"(v) inform such employer that such
14	employer shall have a reasonable oppor-
15	tunity to make representations as to why a
16	monetary or other penalty should not be
17	imposed.
18	"(B) Employer's response.—Whenever
19	any employer receives written pre-penalty notice
20	of a fine or other penalty in accordance with
21	subparagraph (A), the employer may, within 60
22	days from receipt of such notice, file with the
23	Secretary its written response to the notice.
24	The response may include any relevant evidence
25	or proffer of evidence that the employer wishes

to present with respect to whether the employer violated this section and whether, if so, the penalty should be mitigated, and shall be filed and considered in accordance with procedures to be established by the Secretary.

"(C) Right to a hearing.—Before issuance of an order imposing a penalty on any employer, person, or entity, the employer, person, or entity shall be entitled to a hearing before an administrative law judge, if requested within 60 days of the notice of penalty. The hearing shall be held at the nearest location practicable to the place where the employer, person, or entity resides or of the place where the alleged violation occurred.

"(D) Issuance of orders.—If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order. If a hearing is requested and the administrative law judge determines, upon clear and convincing evidence received, that there was a violation, the administrative law judge shall issue the final determination with a written penalty claim. The penalty claim shall specify all charges in the information pro-

1	vided under clauses (i) through (iii) of subpara-
2	graph (A) and any mitigation of the penalty
3	that the administrative law judge deems appro-
4	priate under paragraph (4)(E).
5	"(4) CIVIL PENALTIES.—
6	"(A) Hiring or continuing to employ
7	UNAUTHORIZED ALIENS.—Any employer that
8	violates any provision of subsection (a)(1)(A) or
9	(a)(2) shall—
10	"(i) pay a civil penalty of not less
11	than $\$3,500$ and not more than $\$7,500$ for
12	each unauthorized alien with respect to
13	which each violation of either subsection
14	(a)(1)(A) or $(a)(2)$ occurred;
15	"(ii) if the employer has previously
16	been fined as a result of a previous en-
17	forcement action or previous violation
18	under this paragraph, pay a civil penalty of
19	not less than \$5,000 and not more than
20	\$15,000 for each unauthorized alien with
21	respect to which a violation of either sub-
22	section (a)(1)(A) or (a)(2) occurred; and
23	"(iii) if the employer has previously
24	been fined more than once under this para-
25	graph, pay a civil penalty of not less than

1	\$10,000 and not more than $$25,000$ for
2	each unauthorized alien with respect to
3	which a violation of either subsection
4	(a)(1)(A) or $(a)(2)$ occurred.
5	"(B) ENHANCED PENALTIES.—After the
6	Secretary certifies to Congress that the System
7	has been established, implemented, and made
8	mandatory for use by all employers in the
9	United States, the Secretary may establish an
10	enhanced civil penalty for an employer who—
11	"(i) fails to query the System to verify
12	the identify and work authorized status of
13	an individual; and
14	"(ii) violates a Federal, State, or local
15	law related to—
16	"(I) the payment of wages;
17	"(II) hours worked by employees;
18	or
19	"(III) workplace health and safe-
20	ty.
21	"(C) Recordkeeping or verification
22	PRACTICES.—Any employer that violates or fails
23	to comply with any requirement under sub-
24	section (a)(1)(B), other than a minor or inad-

1	vertent failure, as determined by the Secretary,
2	shall pay a civil penalty of—
3	"(i) not less than \$500 and not more
4	than \$2,000 for each violation;
5	"(ii) if an employer has previously
6	been fined under this paragraph, not less
7	than \$1,000 and not more than \$4,000 for
8	each violation; and
9	"(iii) if an employer has previously
10	been fined more than once under this para-
11	graph, not less than \$2,000 and not more
12	than \$8,000 for each violation.
13	"(D) OTHER PENALTIES.—The Secretary
14	may impose additional penalties for violations,
15	including cease and desist orders, specially de-
16	signed compliance plans to prevent further vio-
17	lations, suspended fines to take effect in the
18	event of a further violation, and in appropriate
19	cases, the remedy provided by paragraph (f)(2).
20	"(E) MITIGATION.—The Secretary or, if
21	an employer requests a hearing, the administra-
22	tive law judge, is authorized, upon such terms
23	and conditions as the Secretary or administra-
24	tive law judge deems reasonable and just and in
25	accordance with such procedures as the Sec-

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retary may establish or any procedures established governing the administrative law judge's assessment of penalties, to reduce or mitigate penalties imposed upon employers, based upon factors including, the employer's hiring volume, compliance history, good-faith implementation of a compliance program, the size and level of sophistication of the employer, and voluntary disclosure of violations of this subsection to the Secretary. The Secretary or administrative law judge shall not mitigate a penalty below the minimum penalty provided by this section, except that the Secretary may, in the case of an employer subject to penalty for recordkeeping or verification violations only who has not previously been penalized under this section, in the Secretary's or administrative law judge's discretion, mitigate the penalty below the statutory minimum or remit it entirely. In any case where a civil money penalty has been imposed on an employer under section 274B for an action or omission that is also a violation of this section, the Secretary or administrative law judge shall mitigate any civil money penalty under this section by the amount of the penalty imposed under section 274B.

> "(F) Effective date.—The civil money penalty amounts and the enhanced penalties provided by subparagraphs (A), (B), and (C) of this paragraph and by subsection (f)(2) shall apply to violations of this section committed on or after the date that is 1 year after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act. For violations committed prior to such date of enactment, the civil money penalty amounts provided by regulations implementing this section as in effect the minute before such date of enactment with respect to knowing hiring or continuing employment, verification, or indemnity bond violations, as appropriate, shall apply.

"(5) Order of internal review and certification of compliance.—

"(A) EMPLOYER COMPLIANCE.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that it is in

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compliance with this section, or has instituted a program to come into compliance.

"(B) EMPLOYER CERTIFICATION.—

"(i) Requirement.—Except as provided in subparagraph (C), not later than 60 days after receiving a notice from the Secretary requiring a certification under subparagraph (A), an official with responsibility for, and authority to bind the company on, all hiring and immigration compliance notices shall certify under penalty of perjury that the employer is in conformance with the requirements of paragraphs (1) through (4) of subsection (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to that employer according to the requirements under subsection (d)(2), and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c) or (d) or that the employer has instituted a program to come into compliance with these requirements.

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1	"(ii) Application.—Clause (i) shall
2	not apply until the date that the Secretary
3	certifies to Congress that the System has
4	been established, implemented, and made
5	mandatory for use by all employers in the
6	United States.
7	"(C) Extension of Deadline.—At the
8	request of the employer, the Secretary may ex-
9	tend the 60-day deadline for good cause.
10	"(D) STANDARDS OR METHODS.—The Sec-
11	retary is authorized to publish in the Federal
12	Register standards or methods for such certifi-
13	cation, require specific recordkeeping practices
14	with respect to such certifications, and audit
15	the records thereof at any time. This authority
16	shall not be construed to diminish or qualify
17	any other penalty provided by this section.
18	"(6) Requirements for review of a final
19	DETERMINATION.—With respect to judicial review of
20	a final determination or penalty order issued under
21	paragraph (3)(D), the following requirements apply:
22	"(A) DEADLINE.—The petition for review
23	must be filed no later than 30 days after the
24	date of the final determination or penalty order
25	issued under paragraph (3)(D).

- "(B) Venue and forms.—The petition for review shall be filed with the court of appeals for the judicial circuit where the employer's principal place of business was located when the final determination or penalty order was made. The record and briefs do not have to be printed. The court shall review the proceeding on a typewritten or electronically filed record and briefs.
 - "(C) Service.—The respondent is the Secretary. In addition to serving the respondent, the petitioner shall serve the Attorney General.
 - "(D) Petitioner's brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

1	"(E) Scope and standard for re-
2	VIEW.—The court of appeals shall conduct a de
3	novo review of the administrative record on
4	which the final determination was based and
5	any additional evidence that the Court finds
6	was previously unavailable at the time of the
7	administrative hearing.
8	"(F) EXHAUSTION OF ADMINISTRATIVE
9	REMEDIES.—A court may review a final deter-
10	mination under paragraph (3)(C) only if—
11	"(i) the petitioner has exhausted all
12	administrative remedies available to the pe-
13	titioner as of right, including any adminis-
14	trative remedies established by regulation,
15	and
16	"(ii) another court has not decided
17	the validity of the order, unless the review-
18	ing court finds that the petition presents
19	grounds that could not have been pre-
20	sented in the prior judicial proceeding or
21	that the remedy provided by the prior pro-
22	ceeding was inadequate or ineffective to
23	test the validity of the order.
24	"(G) Enforcement of orders.—If the
25	final determination issued against the employer

under this subsection is not subjected to review as provided in this paragraph, the Attorney General, upon request by the Secretary, may bring a civil action to enforce compliance with the final determination in any appropriate district court of the United States. The court, on a proper showing, shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the employer comply with the final determination issued against that employer under this subsection. In any such civil action, the validity and appropriateness of the final determination shall not be subject to review.

"(7) CREATION OF LIEN.—If any employer liable for a fee or penalty under this section neglects or refuses to pay such liability after demand and fails to file a petition for review (if applicable) as provided in paragraph (6), the amount of the fee or penalty shall be a lien in favor of the United States on all property and rights to property, whether real or personal, belonging to such employer. If a petition for review is filed as provided in paragraph (6), the lien shall arise upon the entry of a final judgment by the court. The lien continues for 20 years or until

1	the liability is satisfied, remitted, set aside, or termi-
2	nated.
3	"(8) FILING NOTICE OF LIEN.—
4	"(A) Place for filing.—The notice of a
5	lien referred to in paragraph (7) shall be filed
6	as described in 1 of the following:
7	"(i) Under State Laws.—
8	"(I) REAL PROPERTY.—In the
9	case of real property, in 1 office with-
10	in the State (or the county, or other
11	governmental subdivision), as des-
12	ignated by the laws of such State, in
13	which the property subject to the lien
14	is situated.
15	"(II) Personal property.—In
16	the case of personal property, whether
17	tangible or intangible, in 1 office with-
18	in the State (or the county, or other
19	governmental subdivision), as des-
20	ignated by the laws of such State, in
21	which the property subject to the lien
22	is situated, except that State law
23	merely conforming to or reenacting
24	Federal law establishing a national fil-
25	ing system does not constitute a sec-

1	ond office for filing as designated by
2	the laws of such State.
3	"(ii) With clerk of district
4	COURT.—In the office of the clerk of the
5	United States district court for the judicial
6	district in which the property subject to
7	the lien is situated, whenever the State has
8	not by law designated 1 office which meets
9	the requirements of clause (i).
10	"(iii) With recorder of deeds of
11	THE DISTRICT OF COLUMBIA.—In the of-
12	fice of the Recorder of Deeds of the Dis-
13	trict of Columbia, if the property subject to
14	the lien is situated in the District of Co-
15	lumbia.
16	"(B) Situs of property subject to
17	LIEN.—For purposes of subparagraph (A),
18	property shall be deemed to be situated as fol-
19	lows:
20	"(i) Real property.—In the case of
21	real property, at its physical location.
22	"(ii) Personal property.—In the
23	case of personal property, whether tangible
24	or intangible, at the residence of the tax-
25	payer at the time the notice of lien is filed.

1	"(C) Determination of residence.—
2	For purposes of subparagraph (B)(ii), the resi-
3	dence of a corporation or partnership shall be
4	deemed to be the place at which the principal
5	executive office of the business is located, and
6	the residence of a taxpayer whose residence is
7	outside the United States shall be deemed to be
8	in the District of Columbia.
9	"(D) EFFECT OF FILING NOTICE OF
10	LIEN.—
11	"(i) In general.—Upon filing of a
12	notice of lien in the manner described in
13	this paragraph, the lien shall be valid
14	against any purchaser, holder of a security
15	interest, mechanic's lien, or judgment lien
16	creditor, except with respect to properties
17	or transactions specified in subsection (b),
18	(c), or (d) of section 6323 of the Internal
19	Revenue Code of 1986 for which a notice
20	of tax lien properly filed on the same date
21	would not be valid.
22	"(ii) Notice of Lien.—The notice of
23	lien shall be considered a notice of lien for

taxes payable to the United States for the

purpose of any State or local law providing

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1	for the filing of a notice of a tax lien. A
2	notice of lien that is registered, recorded
3	docketed, or indexed in accordance with
4	the rules and requirements relating to
5	judgments of the courts of the State where
6	the notice of lien is registered, recorded
7	docketed, or indexed shall be considered
8	for all purposes as the filing prescribed by
9	this section.
10	"(iii) Other provisions.—The pro-
11	visions of section 3201(e) of title 28
12	United States Code, shall apply to liens
13	filed as prescribed by this paragraph.
14	"(E) Enforcement of a lien.—A lien
15	obtained through this paragraph shall be con-
16	sidered a debt as defined by section 3002 of
17	title 28, United States Code and enforceable
18	pursuant to chapter 176 of such title.
19	"(9) Attorney general adjudication.—
20	The Attorney General shall have jurisdiction to adju-
21	dicate administrative proceedings under this sub-
22	section. Such proceedings shall be conducted in ac-
23	cordance with requirements of section 554 of title 5

United States Code.

1 "(f) Criminal and Civil Penalties and Injunc-2 tions.—

"(1) PROHIBITION OF INDEMNITY BONDS.—It is unlawful for an employer, in the hiring of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring of the individual.

"(2) CIVIL PENALTY.—Any employer who is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) shall be subject to a civil penalty of \$10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(g) GOVERNMENT CONTRACTS.—

"(1) Contractors and recipients.—Whenever an employer who is a Federal contractor (meaning an employer who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to submit an offer for or be awarded a government contract) is determined by the Secretary

to have violated this section on more than 3 occasions or is convicted of a crime under this section, the employer shall be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the procedures and standards and for the periods prescribed by the Federal Acquisition Regulation. However, any administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

- "(2) INADVERTENT VIOLATIONS.—Inadvertent violations of recordkeeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.
- "(3) OTHER REMEDIES AVAILABLE.—Nothing in this subsection shall be construed to modify or limit any remedy available to any agency or official of the Federal Government for violation of any contractual requirement to participate in the System, as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation.

1	"(h) Preemption.—The provisions of this section
2	preempt any State or local law, ordinance, policy, or rule,
3	including any criminal or civil fine or penalty structure,
4	relating to the hiring, continued employment, or status
5	verification for employment eligibility purposes, of unau-
6	thorized aliens. A State, locality, municipality, or political
7	subdivision may exercise its authority over business licens-
8	ing and similar laws as a penalty for failure to use the
9	System.
10	"(i) Deposit of Amounts Received.—Except as
11	otherwise specified, civil penalties collected under this sec-
12	tion shall be deposited by the Secretary into the Com-
13	prehensive Immigration Reform Trust Fund established
14	under section 6(a)(1) of the Border Security, Economic
15	Opportunity, and Immigration Modernization Act.
16	"(j) Challenges to Validity of the System.—
17	"(1) In general.—Any right, benefit, or claim
18	not otherwise waived or limited pursuant to this sec-
19	tion is available in an action instituted in the United
20	States District Court for the District of Columbia,
21	but shall be limited to determinations of—
22	"(A) whether this section, or any regula-
23	tion issued to implement this section, violates
24	the Constitution of the United States; or

1	"(B) whether such a regulation issued by
2	or under the authority of the Secretary to im-
3	plement this section, is contrary to applicable
4	provisions of this section or was issued in viola-
5	tion of chapter 5 of title 5, United States Code.
6	"(2) Deadlines for bringing actions.—
7	Any action instituted under this subsection must be
8	filed no later than 180 days after the date the chal-
9	lenged section or regulation described in subpara-
10	graph (A) or (B) of paragraph (1) becomes effective.
11	No court shall have jurisdiction to review any chal-
12	lenge described in subparagraph (B) after the time
13	period specified in this subsection expires.
14	"(k) Criminal Penalties and Injunctions for
15	PATTERN OR PRACTICE VIOLATIONS.—
16	"(1) Pattern and practice.—Any employer
17	who engages in a pattern or practice of knowing vio-
18	lations of subsection $(a)(1)(A)$ or $(a)(2)$ shall be
19	fined under title 18, United States Code, no more
20	than \$10,000 for each unauthorized alien with re-
21	spect to whom such violation occurs, imprisoned for
22	not more than 2 years for the entire pattern or prac-
23	tice, or both.
24	"(2) Term of imprisonment.—The maximum
25	term of imprisonment of a person convicted of any

1	criminal offense under the United States Code shall
2	be increased by 5 years if the offense is committed
3	as part of a pattern or practice of violations of sub-
4	section $(a)(1)(A)$ or $(a)(2)$.
5	"(3) Enjoining of Pattern or Practice
6	VIOLATIONS.—Whenever the Secretary or the Attor-
7	ney General has reasonable cause to believe that an
8	employer is engaged in a pattern or practice of em-
9	ployment in violation of subsection (a)(1)(A) or
10	(a)(2), the Attorney General may bring a civil action
11	in the appropriate district court of the United States
12	requesting such relief, including a permanent or
13	temporary injunction, restraining order, or other
14	order against the employer, as the Secretary or At-
15	torney General deems necessary.
16	"(1) Criminal Penalties for Unlawful and
17	ABUSIVE EMPLOYMENT.—
18	"(1) In general.—Any person who, during
19	any 12-month period, knowingly employs or hires
20	employs, recruits, or refers for a fee for employment
21	10 or more individuals within the United States who
22	are under the control and supervision of such per-
23	son—
24	"(A) knowing that the individuals are un-
25	authorized aliens; and

1 "(B) under conditions that violate section 2 5(a) of the Occupational Safety and Health Act 3 of 1970 (29 U.S.C. 654(a) (relating to occupa-4 tional safety and health), section 6 or 7 of the 5 Fair Labor Standards Act of 1938 (29 U.S.C. 6 206 and 207) (relating to minimum wages and maximum hours of employment), section 3142 7 8 of title 40, United States Code, (relating to re-9 quired wages on construction contracts), or sec-10 tions 6703 or 6704 of title 41, United States 11 Code, (relating to required wages on service 12 contracts), 13 shall be fined under title 18, United States Code, or 14

imprisoned for not more than 10 years, or both.

- "(2) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.".
- 19 (b) Report on Use of the System in the Agri-CULTURAL INDUSTRY.—Not later than 18 months after 20 21 the date of the enactment of this Act, the Secretary, in 22 consultation with the Secretary of Agriculture, shall sub-23 mit a report to Congress that assesses implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act,

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- 1 as amended by subsection (a), in the agricultural industry,
- 2 including the use of such System technology in agriculture
- 3 industry hiring processes, user, contractor, and third-
- 4 party employer agent employment practices, timing and
- 5 logistics regarding employment verification and
- 6 reverification processes to meet agriculture industry prac-
- 7 tices, and identification of potential challenges and modi-
- 8 fications to meet the unique needs of the agriculture in-
- 9 dustry. Such report shall review—
- 10 (1) the modality of access, training and out-
- 11 reach, customer support, processes for further action
- 12 notices and secondary verifications for short-term
- workers, monitoring, and compliance procedures for
- such System;
- 15 (2) the interaction of such System with the
- process to admit nonimmigrant workers pursuant to
- section 218 or 218A of the Immigration and Nation-
- ality Act (8 U.S.C. 1188 et seq.) and with enforce-
- ment of the immigration laws; and
- 20 (3) the collaborative use of processes of other
- 21 Federal and State agencies that intersect with the
- agriculture industry.
- (c) Report on Impact of the System on Em-
- 24 PLOYERS.—Not later than 18 months after the date of

1	the enactment of this Act, the Secretary shall submit to
2	Congress a report that assesses—
3	(1) the implementation of the Employment
4	Verification System established under section
5	274A(d) of the Immigration and Nationality Act, as
6	amended by subsection (a), by employers;
7	(2) any adverse impact on the revenues, busi-
8	ness processes, or profitability of employers required
9	to use such System; and
10	(3) the economic impact of such System on
11	small businesses.
12	(d) Government Accountability Office Study
13	OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EM-
14	PLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—
15	(1) Study.—The Comptroller General of the
16	United States shall carry out a study of—
17	(A) the effects of the documentary require-
18	ments of section 274A of the Immigration and
19	Nationality Act, as amended by subsection (a),
20	on employers, naturalized United States citi-
21	zens, nationals of the United States, and indi-
22	viduals with employment authorized status; and
23	(B) the challenges such employers, citizens,
24	nationals, or individuals may face in obtaining
25	the documentation required under that section.

1	(2) Report.—Not later than 4 years after the
2	date of the enactment of this Act, the Comptroller
3	General shall submit to Congress a report containing
4	the findings of the study carried out under para-
5	graph (1). Such report shall include, at a minimum,
6	the following:
7	(A) An assessment of available information
8	regarding the number of working age nationals
9	of the United States and individuals who have
10	employment authorized status who lack docu-
11	ments required for employment by such section
12	274A.
13	(B) A description of the additional steps
14	required for individuals who have employment
15	authorized status and do not possess the docu-
16	ments required by such section 274A to obtain
17	such documents.
18	(C) A general assessment of the average fi-
19	nancial costs for individuals who have employ-
20	ment authorized status who do not possess the
21	documents required by such section 274A to ob-
22	tain such documents.
23	(D) A general assessment of the average
24	financial costs and challenges for employers

who have been required to participate in the

1	Employment Verification System established by
2	subsection (d) of such section 274A.
3	(E) A description of the barriers to indi-
4	viduals who have employment authorized status
5	in obtaining the documents required by such
6	section 274A, including barriers imposed by the
7	executive branch of the Government.
8	(F) Any particular challenges facing indi-
9	viduals who have employment authorized status
10	who are members of a federally recognized In-
11	dian tribe in complying with the provisions of
12	such section 274A.
13	(e) Repeal of Pilot Programs and E-Verify
14	AND TRANSITION PROCEDURES.—
15	(1) Repeal.—Sections 401, 402, 403, 404,
16	and 405 of the Illegal Immigration Reform and Im-
17	migrant Responsibility Act of 1996 (division C of
18	Public Law 104–208; 8 U.S.C. 1324a note) are re-
19	pealed.
20	(2) Transition procedures.—
21	(A) Continuation of e-verify pro-
22	GRAM.—Notwithstanding the repeals made by
23	paragraph (1), the Secretary shall continue to
24	operate the E-Verify Program as described in
25	section 403 of the Illegal Immigration Reform

and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, until the transition to the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

- (B) Transition to the system.—Any employer who was participating in the E-Verify Program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, shall participate in the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), to the same extent and in the same manner that the employer participated in such E-Verify Program.
- (3) Construction.—The repeal made by paragraph (1) may not be construed to limit the authority of the Secretary to allow or continue to allow the participation in such System of employers who have

1	participated in such E-Verify Program, as in effect
2	on the minute before the date of the enactment of
3	this Act.
4	(f) Conforming Amendment.—Section 274(a) (8
5	U.S.C. 1324(a)) is amended—
6	(1) by striking paragraph (3); and
7	(2) by redesignating paragraph (4) as para-
8	graph (3).
9	SEC. 3102. INCREASING SECURITY AND INTEGRITY OF SO-
10	CIAL SECURITY CARDS.
11	(a) Fraud-resistant, Tamper-resistant, Wear-
12	RESISTANT, AND IDENTITY THEFT-RESISTANT SOCIAL
13	SECURITY CARDS.—
14	(1) Issuance.—
15	(A) Preliminary work.—Not later than
16	180 days after the date of the enactment of this
17	Act, the Commissioner of Social Security shall
18	begin work to administer and issue fraud-resist-
19	ant, tamper-resistant, wear-resistant, and iden-
20	tity theft-resistant social security cards.
21	(B) Completion.—Not later than 5 years
22	after the date of the enactment of this Act, the
23	Commissioner of Social Security shall issue only
24	social security cards determined to be fraud-re-

1 sistant, tamper-resistant, wear-resistant, and 2 identity theft-resistant. 3 (2) Amendment.— 4 (A) IN GENERAL.—Section 205(c)(2)(G) of 5 the Social Act (42)Security U.S.C. 6 405(c)(2)(G)) is amended by striking the sec-7 ond sentence and inserting the following: "The 8 social security card shall be fraud-resistant, 9 tamper-resistant, wear-resistant, and identity theft-resistant.". 10 11 (B) Effective date.—The amendment 12 made by subparagraph (A) shall take effect on 13 the date that is 5 years after the date of the 14 enactment of this Act. 15 (3)AUTHORIZATION OF APPROPRIATION.— 16 There are authorized to be appropriated, from the 17 Comprehensive Immigration Reform Trust Fund es-18 tablished under section 6(a)(1), such sums as may 19 be necessary to carry out this section and the 20 amendments made by this section. 21 (4) Emergency designation for congres-22 SIONAL ENFORCEMENT.—In the Senate, amounts 23 made available under this subsection are designated

as an emergency requirement pursuant to section

403(a) of S. Con. Res. 13 (111th Congress), the

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1	concurrent resolution on the budget for fiscal year
2	2010.
3	(5) Emergency designation for statutory
4	PAYGO.—Amounts made available under this sub-
5	section are designated as an emergency requirement
6	under section 4(g) of the Statutory Pay-As-You-Go
7	Act of 2010 (Public Law 111–139; 2 U.S.C.
8	933(g)).
9	(b) Multiple Cards.—Section 205(c)(2)(G) of the
10	Social Security Act (42 U.S.C. 405(c)(2)(G)), as amended
11	by subsection (a)(2), is amended—
12	(1) by inserting "(i)" after "(G)"; and
13	(2) by adding at the end the following:
14	"(ii) The Commissioner of Social Security shall re-
15	strict the issuance of multiple replacement social security
16	cards to any individual to 3 per year and 10 for the life
17	of the individual, except that the Commissioner may allow
18	for reasonable exceptions from the limits under this clause
19	on a case-by-case basis in compelling circumstances.".
20	(c) Criminal Penalties.—
21	(1) Social security fraud.—
22	(A) In general.—Chapter 47 of title 18,
23	United States Code, is amended by inserting at
24	the end the following:

1 "§ 1041. Social security fraud

2	"Any person who—
3	"(1) knowingly possesses or uses a social secu-
4	rity account number or social security card knowing
5	that the number or card was obtained from the
6	Commissioner of Social Security by means of fraud
7	or false statement;
8	"(2) knowingly and falsely represents a number
9	to be the social security account number assigned by
10	the Commissioner of Social Security to him or her
11	or to another person, when such number is known
12	not to be the social security account number as-
13	signed by the Commissioner of Social Security to
14	him or her or to such other person;
15	"(3) knowingly, and without lawful authority,
16	buys, sells, or possesses with intent to buy or sell a
17	social security account number or a social security
18	card that is or purports to be a number or card
19	issued by the Commissioner of Social Security;
20	"(4) knowingly alters, counterfeits, forges, or

- "(4) knowingly alters, counterfeits, forges, or falsely makes a social security account number or a social security card;
- "(5) knowingly uses, distributes, or transfers a social security account number or a social security card knowing the number or card to be intentionally

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altered, counterfeited, forged, falsely made, or stolen; or

"(6) without lawful authority, knowingly produces or acquires for any person a social security account number, a social security card, or a number or card that purports to be a social security account number or social security card,

8 shall be fined under this title, imprisoned not more than9 5 years, or both.".

10 (B) Table of Sections amendment.—
11 The table of sections for chapter 47 of title 18,
12 United States Code, is amended by adding after
13 the item relating to section 1040 the following:
"Sec. 1041. Social security fraud.".

(2) Information disclosure.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Commissioner of Social Security shall disclose for the purpose of investigating a violation of section 1041 of title 18, United States Code, or section 274A, 274B, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324a, 1324b, and 1324c), after receiving a written request from an officer in a supervisory position or higher official of any Federal

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1	law enforcement agency, the following records
2	of the Social Security Administration:
3	(i) Records concerning the identity,
4	address, location, or financial institution
5	accounts of the holder of a social security
6	account number or social security card.
7	(ii) Records concerning the applica-
8	tion for and issuance of a social security
9	account number or social security card.
10	(iii) Records concerning the existence
11	or nonexistence of a social security account
12	number or social security card.
13	(B) Limitation.—The Commissioner of
14	Social Security shall not disclose any tax return
15	or tax return information pursuant to subpara-
16	graph (A) except as authorized by section 6103
17	of the Internal Revenue Code of 1986.
18	SEC. 3103. INCREASING SECURITY AND INTEGRITY OF IM-
19	MIGRATION DOCUMENTS.
20	Not later than 1 year after the date of the enactment
21	of this Act, the Secretary shall submit a report to Con-
22	gress on the feasibility, advantages, and disadvantages of
23	including, in addition to a photograph, other biometric in-
24	formation on each employment authorization document
25	issued by the Department.

1	SEC. 3104. RESPONSIBILITIES OF THE SOCIAL SECURITY
2	ADMINISTRATION.
3	Title XI of the Social Security Act (42 U.S.C. 1301
4	et seq.) is amended by adding at the end the following
5	new part:
6	"Part E—Employment Verification
7	"RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL
8	SECURITY
9	"Sec. 1186. (a) Confirmation of Employment
10	VERIFICATION DATA.—As part of the employment
11	verification system established by the Secretary of Home-
12	land Security under the provisions of section 274A of the
13	Immigration and Nationality Act (8 U.S.C. 1324a) (in
14	this section referred to as the 'System'), the Commissioner
15	of Social Security shall, subject to the provisions of section
16	274A(d) of the Immigration and Nationality Act (8 U.S.C.
17	1324a(d)), establish a reliable, secure method that, oper-
18	ating through the System and within the time periods
19	specified in section 274A(d) of such Act—
20	"(1) compares the name, date of birth, social
21	security account number, and available citizenship
22	information provided in an inquiry against such in-
23	formation maintained by the Commissioner in order
24	to confirm (or not confirm) the validity of the infor-
25	mation provided regarding an individual whose iden-
26	tity and employment eligibility must be confirmed;

1	"(2) determines the correspondence of the
2	name, date of birth, and number;
3	"(3) determines whether the name and number
4	belong to an individual who is deceased according to
5	the records maintained by the Commissioner;
6	"(4) determines whether an individual is a na-
7	tional of the United States, as defined in section
8	101(a)(22) of the Immigration and Nationality Act
9	(8 U.S.C. 1101(a)(22)); and
10	"(5) determines whether the individual has pre-
11	sented a social security account number that is not
12	valid for employment.
13	"(b) Prohibition.—The System shall not disclose or
14	release social security information to employers through
15	the confirmation system (other than such confirmation or
16	nonconfirmation, information provided by the employer to
17	the System, or the reason for the issuance of a further
18	action notice).".
19	SEC. 3105. IMPROVED PROHIBITION ON DISCRIMINATION
20	BASED ON NATIONAL ORIGIN OR CITIZEN-
21	SHIP STATUS.
22	(a) In General.—Section 274B(a) (8 U.S.C.
23	1324b(a)) is amended to read as follows:
24	"(a) Prohibition on Discrimination Based on
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1	"(1) Prohibition on discrimination gen-
2	ERALLY.—It is an unfair immigration-related em-
3	ployment practice for a person, other entity, or em-
4	ployment agency, to discriminate against any indi-
5	vidual (other than an unauthorized alien defined in
6	section 274A(b)) because of such individual's na-
7	tional origin or citizenship status, with respect to the
8	following:
9	"(A) The hiring of the individual for em-
10	ployment.
11	"(B) The verification of the individual's
12	eligibility to work in the United States.
13	"(C) The discharging of the individual
14	from employment.
15	"(2) Exceptions.—Paragraph (1) shall not
16	apply to the following:
17	"(A) A person, other entity, or employer
18	that employs 3 or fewer employees, except for
19	an employment agency.
20	"(B) A person's or entity's discrimination
21	because of an individual's national origin if the
22	discrimination with respect to that employer,
23	person, or entity and that individual is covered
24	under section 703 of the Civil Rights Act of
25	1964 (42 U.S.C. 2000e-2), unless the discrimi-

1	nation is related to an individual's verification
2	of employment authorization.
3	"(C) Discrimination because of citizenship
4	status which—
5	"(i) is otherwise required in order to
6	comply with a provision of Federal, State,
7	or local law related to law enforcement;
8	"(ii) is required by Federal Govern-
9	ment contract; or
10	"(iii) the Secretary or Attorney Gen-
11	eral determines to be essential for an em-
12	ployer to do business with an agency or de-
13	partment of the Federal Government or a
14	State, local, or tribal government.
15	"(3) Additional exception providing
16	RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—
17	Notwithstanding any other provision of this section,
18	it is not an unfair immigration-related employment
19	practice for an employer (as defined in section
20	274A(b)) to prefer to hire, recruit, or refer for a fee
21	an individual who is a citizen or national of the
22	United States over another individual who is an
23	alien if the 2 individuals are equally qualified.
24	"(4) Unfair immigration-related employ-
25	MENT PRACTICES RELATING TO THE SYSTEM —It is

1	also an unfair immigration-related employment prac-
2	tice for a person, other entity, or employment agen-
3	cy—
4	"(A) to discharge or constructively dis-
5	charge an individual solely due to a further ac-
6	tion notice issued by the Employment
7	Verification System created by section 274A
8	until the administrative appeal described in sec-
9	tion 274A(d)(6) is completed;
10	"(B) to use the System with regard to any
11	person for any purpose except as authorized by
12	section 274A(d);
13	"(C) to use the System to reverify the em-
14	ployment authorization of a current employee,
15	including an employee continuing in employ-
16	ment, other than reverification upon expiration
17	of employment authorization, or as otherwise
18	authorized under section 274A(d) or by regula-
19	tion;
20	"(D) to use the System selectively for em-
21	ployees, except where authorized by law;
22	"(E) to fail to provide to an individual any
23	notice required in section 274A(d) within the
24	relevant time period:

1	"(F) to use the System to deny workers'
2	employment or post-employment benefits;
3	"(G) to misuse the System to discriminate
4	based on national origin or citizenship status;
5	"(H) to require an employee or prospective
6	employee to use any self-verification feature of
7	the System or provide, as a condition of appli-
8	cation or employment, any self-verification re-
9	sults;
10	"(I) to use an immigration status
11	verification system, service, or method other
12	than those described in section 274A for pur-
13	poses of verifying employment eligibility; or
14	"(J) to grant access to document
15	verification or System data, to any individual or
16	entity other than personnel authorized to have
17	such access, or to fail to take reasonable safe-
18	guards to protect against unauthorized loss,
19	use, alteration, or destruction of System data.
20	"(5) Prohibition of intimidation or retal-
21	IATION.—It is also an unfair immigration-related
22	employment practice for a person, other entity, or
<i></i>	employment practice for a person, other energy, or
23	employment agency to intimidate, threaten, coerce,

1 "(A) for the purpose of interfering with 2 any right or privilege secured under this sec-3 tion; or

> "(B) because the individual intends to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

"(6) Treatment of Certain Documentary Practices as employment practices.—A person's, other entity's, or employment agency's request, for purposes of verifying employment eligibility, for more or different documents than are required under section 274A, or for specific documents, or refusing to honor documents tendered that reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice.

"(7) Prohibition of withholding employment records.—It is an unfair immigration-related employment practice for an employer that is required under Federal, State, or local law to maintain records documenting employment, including dates or hours of work and wages received, to fail to provide such records to any employee upon request.

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1 "(8) Professional, commercial, and busi-2 Ness licenses.—An individual who is authorized to 3 be employed in the United States may not be denied 4 a professional, commercial, or business license on

the basis of his or her immigration status.

- 6 "(9) EMPLOYMENT AGENCY DEFINED.—In this 7 section, the term 'employment agency' means any 8 employer, person, or entity regularly undertaking 9 with or without compensation to procure employees 10 for an employer or to procure for employees oppor-11 tunities to work for an employer and includes an 12 agent of such employer, person, or entity.".
- 13 (b) REFERRAL BY EEOC.—Section 274B(b) (8 14 U.S.C. 1324b(b)) is amended by adding at the end the 15 following:
- 16 "(3) Referral by EEoc.—The Equal Employ-17 ment Opportunity Commission shall refer all matters 18 alleging immigration-related unfair employment 19 practices filed with the Commission, including those 20 alleging violations of paragraphs (1), (4), (5), and 21 (6) of subsection (a) to the Special Counsel for Im-22 migration-Related Unfair Employment Practices of 23 the Department of Justice.".
- 24 (c) AUTHORIZATION OF APPROPRIATIONS.—Section 25 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by striking

1	the period at the end and inserting "and an additional
2	\$40,000,000 for each of fiscal years 2014 through 2016.".
3	(d) Fines.—
4	(1) In General.—Section 274B(g)(2)(B) (8
5	U.S.C. 1324b(g)(2)(B)) is amended by striking
6	clause (iv) and inserting the following:
7	"(iv) to pay any applicable civil pen-
8	alties prescribed below, the amounts of
9	which may be adjusted periodically to ac-
10	count for inflation as provided by law—
11	"(I) except as provided in sub-
12	clauses (II) through (IV), to pay a
13	civil penalty of not less than \$2,000
14	and not more than \$5,000 for each in-
15	dividual subjected to an unfair immi-
16	gration-related employment practice;
17	"(II) except as provided in sub-
18	clauses (III) and (IV), in the case of
19	an employer, person, or entity pre-
20	viously subject to a single order under
21	this paragraph, to pay a civil penalty
22	of not less than \$4,000 and not more
23	than \$10,000 for each individual sub-
24	jected to an unfair immigration-re-
25	lated employment practice:

1	"(III) except as provided in sub-
2	clause (IV), in the case of an em-
3	ployer, person, or entity previously
4	subject to more than 1 order under
5	this paragraph, to pay a civil penalty
6	of not less than \$8,000 and not more
7	than \$25,000 for each individual sub-
8	jected to an unfair immigration-re-
9	lated employment practice; and
10	"(IV) in the case of an unfair im-
11	migration-related employment practice
12	described in paragraphs (4) through
13	(7) of subsection (a), to pay a civil
14	penalty of not less than \$500 and not
15	more than \$2,000 for each individual
16	subjected to an unfair immigration-re-
17	lated employment practice.".
18	(2) Effective date.—The amendment made
19	by paragraph (1) shall take effect on the date that
20	is 1 year after the date of the enactment of this Act
21	and apply to violations occurring on or after such
22	date of enactment.
23	SEC. 3106. RULEMAKING.
24	(a) Interim Final Regulations —

1	(1) IN GENERAL.—Not later than 1 year after
2	the date of the enactment of this Act—
3	(A) the Secretary, shall issue regulations
4	implementing sections 3101 and 3104 and the
5	amendments made by such sections (except for
6	section 274A(d)(7) of the Immigration and Na-
7	tionality Act); and
8	(B) the Attorney General shall issue regu-
9	lations implementing section 274A(d)(7) of the
10	Immigration and Nationality Act, as added by
11	section 3101, section 3105, and the amend-
12	ments made by such sections.
13	(2) Effective date.—Regulations issued pur-
14	suant to paragraph (1) shall be effective immediately
15	on an interim basis, but are subject to change and
16	revision after public notice and opportunity for a pe-
17	riod for public comment.
18	(b) Final Regulations.—Within a reasonable time
19	after publication of the interim regulations under sub-
20	section (a), the Secretary, in consultation with the Com-
21	missioner of Social Security and the Attorney General,
22	shall publish final regulations implementing this subtitle.

1	SEC. 3107. OFFICE OF THE SMALL BUSINESS AND EM-
2	PLOYEE ADVOCATE.
3	(a) Establishment of Small Business and Em-
4	PLOYEE ADVOCATE.—The Secretary shall establish and
5	maintain within U.S. Citizenship and Immigration Serv-
6	ices the Office of the Small Business and Employee Advo-
7	cate (in this section referred to as the "Office"). The pur-
8	pose of the Office shall be to assist small businesses and
9	individuals in complying with the requirements of section
10	274A of the Immigration and Nationality Act (8 U.S.C.
11	1324a), as amended by this Act, including the resolution
12	of conflicts arising in the course of attempted compliance
13	with such requirements.
14	(b) Functions.—The functions of the Office shall
15	include, but not be limited to, the following:
16	(1) Informing small businesses and individuals
17	about the verification practices required by section
18	274A of the Immigration and Nationality Act, in-
19	cluding, but not limited to, the document verification
20	requirements and the employment verification sys-
21	tem requirements under subsections (c) and (d) of
22	that section.
23	(2) Assisting small businesses and individuals
24	in addressing allegedly erroneous further action no-
25	tices and nonconfirmations issued under subsection

- 1 (d) of section 274A of the Immigration and Nation-2 ality Act.
 - (3) Informing small businesses and individuals of the financial liabilities and criminal penalties that apply to violations and failures to comply with the requirements of section 274A of the Immigration and Nationality Act, including, but not limited to, by issuing best practices for compliance with that section.
 - (4) To the extent practicable, proposing changes to the Secretary in the administrative practices of the employment verification system required under subsection (d) of section 274A of the Immigration and Nationality Act to mitigate the problems identified under paragraph (2).
 - (5) Making recommendations through the Secretary to Congress for legislative action to mitigate such problems.
- 19 (c) AUTHORITY TO ISSUE ASSISTANCE ORDER.—
 - (1) In General.—Upon application filed by a small business or individual with the Office (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Office may issue an assistance order if—

1	(A) the Office determines the small busi-
2	ness or individual is suffering or about to suffer
3	a significant hardship as a result of the manner
4	in which the employment verification laws
5	under subsections (c) and (d) of section 274A
6	of the Immigration and Nationality Act are
7	being administered by the Secretary; or
8	(B) the small business or individual meets
9	such other requirements as are set forth in reg-
10	ulations prescribed by the Secretary.
11	(2) Determination of Hardship.—For pur-
12	poses of paragraph (1), a significant hardship shall
13	include—
14	(A) an immediate threat of adverse action
15	(B) a delay of more than 60 days in resolv-
16	ing employment verification system problems;
17	(C) the incurring by the small business or
18	individual of significant costs if relief is not
19	granted; or
20	(D) irreparable injury to, or a long-term
21	adverse impact on, the small business or indi-
22	vidual if relief is not granted.
23	(3) Standards when administrative guid-
24	ANCE NOT FOLLOWED.—In cases where a U.S. Citi-
25	zenship and Immigration Services employee is not

1	following applicable published administrative guid-
2	ance, the Office shall construe the factors taken into
3	account in determining whether to issue an assist-
4	ance order under this subsection in the manner most
5	favorable to the small business or individual.
6	(4) Terms of assistance order.—The terms
7	of an assistance order under this subsection may re-
8	quire the Secretary within a specified time period—
9	(A) to determine whether any employee is
10	or is not authorized to work in the United
11	States; or
12	(B) to abate any penalty under section
13	274A of the Immigration and Nationality Act
14	that the Office determines is arbitrary, capri-
15	cious, or disproportionate to the underlying of-
16	fense.
17	(5) Authority to modify or rescind.—Any
18	assistance order issued by the Office under this sub-
19	section may be modified or rescinded—
20	(A) only by the Office, the Director or
21	Deputy Director of U.S. Citizenship and Immi-
22	gration Services, or the Secretary or the Sec-
23	retary's designee; and
24	(B) if rescinded by the Director or Deputy
25	Director of U.S. Citizenship and Immigration

1	Services, only if a written explanation of the
2	reasons of such official for the modification or
3	rescission is provided to the Office.
4	(6) Suspension of running of period of
5	LIMITATION.—The running of any period of limita-
6	tion with respect to an action described in paragraph
7	(4)(A) shall be suspended for—
8	(A) the period beginning on the date of the
9	small business or individual's application under
10	paragraph (1) and ending on the date of the
11	Office's decision with respect to such applica-
12	tion; and
13	(B) any period specified by the Office in
14	an assistance order issued under this subsection
15	pursuant to such application.
16	(7) Independent action of office.—Noth-
17	ing in this subsection shall prevent the Office from
18	taking any action in the absence of an application
19	under paragraph (1).
20	(d) Accessibility to the Public.—
21	(1) In Person, online, and telephone as-
22	SISTANCE.—The Office shall provide information
23	and assistance specified in subsection (b) in person
24	at locations designated by the Secretary, online

- through an Internet website of the Department available to the public, and by telephone.
- 3 (2) Availability to all employers.—In
- 4 making information and assistance available, the Of-
- 5 fice shall prioritize the needs of small businesses and
- 6 individuals. However, the information and assistance
- 7 available through the Office shall be available to any
- 8 employer.
- 9 (e) Avoiding Duplication Through Coordina-
- 10 TION.—In the discharge of the functions of the Office, the
- 11 Secretary shall consult with the Secretary of Labor, the
- 12 Secretary of Agriculture, the Commissioner, the Attorney
- 13 General, the Equal Employment Opportunity Commission,
- 14 and the Administrator of the Small Business Administra-
- 15 tion in order to avoid duplication of efforts across the Fed-
- 16 eral Government.
- 17 (f) Definitions.—In this section:
- 18 (1) The term "employer" has the meaning
- given that term in section 274A(b) of the Immigra-
- tion and Nationality Act.
- 21 (2) The term "small business" means an em-
- ployer with 49 or fewer employees.
- 23 (g) Funding.—There shall be appropriated, from the
- 24 Comprehensive Immigration Reform Trust Fund estab-

1	lished by section 6(a)(1) of this Act, such sums as may
2	be necessary to carry out the functions of the Office.
3	Subtitle B—Protecting United
4	States Workers
5	SEC. 3201. PROTECTIONS FOR VICTIMS OF SERIOUS VIOLA-
6	TIONS OF LABOR AND EMPLOYMENT LAW OR
7	CRIME.
8	(a) In General.—Section 101(a)(15)(U) (8 U.S.C.
9	1101(a)(15)(U)) is amended—
10	(1) in clause (i)—
11	(A) by amending subclause (I) to read as
12	follows:
13	"(I) the alien—
14	"(aa) has suffered substantial
15	physical or mental abuse or substan-
16	tial harm as a result of having been a
17	victim of criminal activity described in
18	clause (iii) or of a covered violation
19	described in clause (iv); or
20	"(bb) is a victim of criminal ac-
21	tivity described in clause (iii) or of a
22	covered violation described in clause
23	(iv) and would suffer extreme hard-
24	ship upon removal;";

1	(B) in subclause (II), by inserting ", or a
2	covered violation resulting in a claim described
3	in clause (iv) that is not the subject of a frivo-
4	lous lawsuit by the alien" before the semicolon
5	at the end; and
6	(C) by amending subclauses (III) and (IV)
7	to read as follows:
8	"(III) the alien (or in the case of an
9	alien child who is younger than 16 years of
10	age, the parent, legal guardian, or next
11	friend of the alien) has been helpful, is
12	being helpful, or is likely to be helpful to—
13	"(aa) a Federal, State, or local
14	law enforcement official, a Federal,
15	State, or local prosecutor, a Federal,
16	State, or local judge, the Department
17	of Homeland Security, the Equal Em-
18	ployment Opportunity Commission,
19	the Department of Labor, or other
20	Federal, State, or local authorities in-
21	vestigating or prosecuting criminal ac-
22	tivity described in clause (iii); or
23	"(bb) any Federal, State, or local
24	governmental agency or judge inves-
25	tigating, prosecuting, or seeking civil

1	remedies for any cause of action,
2	whether criminal, civil, or administra-
3	tive, arising from a covered violation
4	described in clause (iv) and presents a
5	certification from such Federal, State,
6	or local governmental agency or judge
7	attesting that the alien has been help-
8	ful, is being helpful, or is likely to be
9	helpful to such agency in the inves-
10	tigation, prosecution, or adjudication
11	arising from a covered violation de-
12	scribed in clause (iv); and
13	"(IV) the criminal activity described
14	in clause (iii) or the covered violation de-
15	scribed in clause (iv)—
16	"(aa) violated the laws of the
17	United States; or
18	"(bb) occurred in the United
19	States (including Indian country and
20	military installations) or the terri-
21	tories and possessions of the United
22	States;";
23	(2) in clause (ii)(II), by striking "and" at the
24	end;
25	(3) by moving clause (iii) 2 ems to the left:

1	(4) in clause (iii), by inserting "child abuse;
2	elder abuse;" after "stalking;";
3	(5) by adding at the end the following:
4	"(iv) a covered violation referred to in this
5	clause is—
6	"(I) a serious violation involving 1 or more
7	of the following or any similar activity in viola-
8	tion of any Federal, State, or local law: serious
9	workplace abuse, exploitation, retaliation, or
10	violation of whistleblower protections;
11	"(II) a violation giving rise to a civil cause
12	of action under section 1595 of title 18, United
13	States Code; or
14	"(III) a violation resulting in the depriva-
15	tion of due process or constitutional rights.".
16	(b) Savings Provision.—Nothing in section
17	101(a)(15)(U)(iv)(I) of the Immigration and Nationality
18	Act, as added by subsection (a), may be construed as al-
19	tering the definition of retaliation or discrimination under
20	any other provision of law.
21	(c) Temporary Stay of Removal.—Section 274A
22	(8 U.S.C. 1324a), as amended by section 3101, is further
23	amended—
24	(1) in subsection (e) by adding at the end the
25	following:

1	"(10) Conduct in enforcement actions.—
2	If the Secretary undertakes an enforcement action
3	at a facility about which a bona fide workplace claim
4	has been filed or is contemporaneously filed, or as
5	a result of information provided to the Secretary in
6	retaliation against employees for exercising their
7	rights related to a bona fide workplace claim, the
8	Secretary shall ensure that—
9	"(A) any aliens arrested or detained who
10	are necessary for the investigation or prosecu-
11	tion of a bona fide workplace claim or criminal
12	activity (as described in subparagraph (T) or
13	(U) of section $101(a)(15)$) are not removed
14	from the United States until after the Sec-
15	retary—
16	"(i) notifies the appropriate law en-
17	forcement agency with jurisdiction over
18	such violations or criminal activity; and
19	"(ii) provides such agency with the
20	opportunity to interview such aliens;
21	"(B) no aliens entitled to a stay of removal
22	or abeyance of removal proceedings under this
23	section are removed; and
24	"(C) the Secretary shall stay the removal
25	of an alien who—

1	"(i) has filed a claim regarding a cov-
2	ered violation described in clause (iv) of
3	section 101(a)(15)(U) and is the victim of
4	the same violations under an existing in-
5	vestigation;
6	"(ii) is a material witness in any
7	pending or anticipated proceeding involving
8	a bona fide workplace claim or civil rights
9	claim; or
10	"(iii) has filed for relief under such
11	section if the alien is working with law en-
12	forcement as described in clause (i)(III) of
13	such section."; and
14	(2) by adding at the end the following:
15	"(m) VICTIMS OF CRIMINAL ACTIVITY OR LABOR
16	AND EMPLOYMENT VIOLATIONS.—The Secretary of
17	Homeland Security may permit an alien to remain tempo-
18	rarily in the United States and authorize the alien to en-
19	gage in employment in the United States if the Secretary
20	determines that the alien—
21	"(1) has filed for relief under section
22	101(a)(15)(U); or
23	"(2)(A) has filed, or is a material witness to, a
24	bona fide claim or proceedings resulting from a cov-

1	ered violation (as defined in section
2	101(a)(15)(U)(iv)); and
3	"(B) has been helpful, is being helpful, or is
4	likely to be helpful, in the investigation, prosecution
5	of, or pursuit of civil remedies related to the claim
6	arising from a covered violation, to—
7	"(i) a Federal, State, or local law enforce-
8	ment official;
9	"(ii) a Federal, State, or local prosecutor;
10	"(iii) a Federal, State, or local judge;
11	"(iv) the Department of Homeland Secu-
12	rity;
13	"(v) the Equal Employment Opportunity
14	Commission; or
15	"(vi) the Department of Labor.".
16	(d) Conforming Amendments.—Section 214(p) (8
17	U.S.C. 1184(p)) is amended—
18	(1) in paragraph (1), by striking "in section
19	101(a)(15)(U)(iii)." both places it appears and in-
20	serting "in clause (iii) of section $101(a)(15)(U)$ or
21	investigating, prosecuting, or seeking civil remedies
22	for claims resulting from a covered violation de-
23	scribed in clause (iv) of such section."; and
24	(2) in the first sentence of paragraph (6)—

1	(A) by striking "in section
2	101(a)(15)(U)(iii)" and inserting "in clause
3	(iii) of section 101(a)(15)(U) or claims result-
4	ing from a covered violation described in clause
5	(iv) of such section"; and
6	(B) by inserting "or claim arising from a
7	covered violation" after "prosecution of such
8	criminal activity".
9	(e) Modification of Limitation on Authority
10	To Adjust Status for Victims of Crimes.—Section
11	245(m)(1) (8 U.S.C. 1255(m)(1)) is amended, in the mat-
12	ter before subparagraph (A), by inserting "or an investiga-
13	tion or prosecution regarding a workplace or civil rights
14	claim" after "prosecution".
15	(f) Expansion of Limitation on Sources of In-
16	FORMATION THAT MAY BE USED TO MAKE ADVERSE
17	DETERMINATIONS.—
18	(1) In general.—Section 384(a)(1) of the Il-
19	legal Immigration Reform and Immigrant Responsi-
20	bility Act of 1996 (8 U.S.C. 1367(a)(1)) is amend-
21	ed —
22	(A) in each of subparagraphs (A) through
23	(D), by striking the comma at the end and in-
24	serting a semicolon:

1	(B) subparagraph (E), by striking "the
2	criminal activity," and inserting "abuse and the
3	criminal activity or bona fide workplace claim
4	(as defined in subsection (e));";
5	(C) in subparagraph (F), by striking ", the
6	trafficker or perpetrator," and inserting "), the
7	trafficker or perpetrator; or"; and
8	(D) by inserting after subparagraph (F)
9	the following:
10	"(G) the alien's employer; or".
11	(2) Workplace claim defined.—Section 384
12	of such Act (8 U.S.C. 1367) is amended by adding
13	at the end the following:
14	"(e) Workplace Claims.—
15	"(1) Workplace claims defined.—
16	"(A) IN GENERAL.—In subsection (a)(1),
17	the term 'workplace claim' means any claim, pe-
18	tition, charge, complaint, or grievance filed
19	with, or submitted to, a Federal, State, or local
20	agency or court, relating to the violation of ap-
21	plicable Federal, State, or local labor or employ-
22	ment laws.
23	"(B) Construction.—Subparagraph (A)
24	may not be construed to alter what constitutes

1	retaliation or discrimination under any other
2	provision of law.
3	"(2) Penalty for false claims.—Any per-
4	son who knowingly presents a false or fraudulent
5	claim to a law enforcement official in relation to a
6	covered violation described in section
7	101(a)(15)(U)(iv) of the Immigration and Nation-
8	ality Act for the purpose of obtaining a benefit
9	under this section shall be subject to a civil penalty
10	of not more than \$1,000.
11	"(3) Limitation on stay of adverse deter-
12	MINATIONS.—In the case of an alien applying for
13	status under section 101(a)(15)(U) of the Immigra-
14	tion and Nationality Act and seeking relief under
15	that section, the prohibition on adverse determina-
16	tions under subsection (a) shall expire on the date
17	that the alien's application for status under such
18	section is denied and all opportunities for appeal of
19	the denial have been exhausted.".
20	(g) Removal Proceedings.—Section 239(e) (8
21	U.S.C. 1229(e)) is amended—
22	(1) in paragraph (1)—
23	(A) by striking "In cases where" and in-
24	serting "If": and

1	(B) by striking "paragraph (2)," and in-
2	serting "paragraph (2) or as a result of infor-
3	mation provided to the Secretary of Homeland
4	Security in retaliation against individuals for
5	exercising or attempting to exercise their em-
6	ployment rights or other legal rights,"; and
7	(2) in paragraph (2), by adding at the end the
8	following:
9	"(C) At a facility about which a bona fide
10	workplace claim has been filed or is contem-
11	poraneously filed.".
12	SEC. 3202. EMPLOYMENT VERIFICATION SYSTEM EDU-
13	CATION FUNDING.
13 14	cation funding. (a) Disposition of Civil Penalties.—Penalties
14 15	(a) Disposition of Civil Penalties.—Penalties
141516	(a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section
14 15 16 17	(a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended
14 15 16 17	(a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund
14 15 16 17 18	(a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund
14 15 16 17 18	(a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1).
14 15 16 17 18 19 20	 (a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1). (b) EXPENDITURES.—Amounts deposited into the
14 15 16 17 18 19 20 21	 (a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1). (b) EXPENDITURES.—Amounts deposited into the Trust Fund under subsection (a) shall be made available
14 15 16 17 18 19 20 21 22	 (a) DISPOSITION OF CIVIL PENALTIES.—Penalties collected under subsections (e)(4) and (f)(3) of section 274A of the Immigration and Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1). (b) EXPENDITURES.—Amounts deposited into the Trust Fund under subsection (a) shall be made available to the Secretary and the Attorney General to provide edu-

1	(c) Determination of Budgetary Effects.—
2	(1) Emergency designation for congres-
3	SIONAL ENFORCEMENT.—In the Senate, amounts
4	made available under this section are designated as
5	an emergency requirement pursuant to section
6	403(a) of S. Con. Res. 13 (111th Congress), the
7	concurrent resolution on the budget for fiscal year
8	2010.
9	(2) Emergency designation for statutory
10	PAYGO.—Amounts made available under this section
11	are designated as an emergency requirement under
12	section 4(g) of the Statutory Pay-As-You-Go Act of
13	2010 (Public Law 111–139; 2 U.S.C. 933(g)).
14	SEC. 3203. DIRECTIVE TO THE UNITED STATES SEN-
14 15	SEC. 3203. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.
15 16	TENCING COMMISSION.
15 16 17	TENCING COMMISSION. (a) In General.—Pursuant to its authority under
15 16 17 18	TENCING COMMISSION. (a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accord-
15 16 17 18	tencing commission. (a) In General.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with subsection (b), the United States Sentencing
115 116 117 118 119 220	TENCING COMMISSION. (a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with subsection (b), the United States Sentencing Commission shall promulgate sentencing guidelines or
115 116 117 118 119 220	TENCING COMMISSION. (a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with subsection (b), the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to modify, if appro-
15 16 17 18 19 20 21	TENCING COMMISSION. (a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with subsection (b), the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to modify, if appropriate, the penalties imposed on persons convicted of of-
15 16 17 18 19 20 21	tencing commission. (a) In General.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with subsection (b), the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to modify, if appropriate, the penalties imposed on persons convicted of offenses under—

1	(2) section 16 of the Fair Labor Standards Act
2	of 1938 (29 U.S.C. 216); and
3	(3) any other Federal law covering similar con-
4	duct.
5	(b) Requirements.—In carrying out subsection (a)
6	the Sentencing Commission shall provide sentencing en-
7	hancements for any person convicted of an offense de-
8	scribed in subsection (a) if such offense involves—
9	(1) the intentional confiscation of identification
10	documents;
11	(2) corruption, bribery, extortion, or robbery;
12	(3) sexual abuse;
13	(4) serious bodily injury;
14	(5) an intent to defraud; or
15	(6) a pattern of conduct involving multiple vio-
16	lations of law that—
17	(A) creates, through knowing and inten-
18	tional conduct, a risk to the health or safety of
19	any victim; or
20	(B) denies payments due to victims for
21	work completed.
22	Subtitle C—Other Provisions
23	SEC. 3301. FUNDING.
24	(a) Establishment of the Interior Enforce-
25	MENT ACCOUNT.—There is hereby established in the

- 1 Treasury of the United States an account which shall be
- 2 known as the Interior Enforcement Account.
- 3 (b) APPROPRIATIONS.—There are authorized to be
- 4 appropriated to the Interior Enforcement Account
- 5 \$1,000,000,000 to carry out this title and the amend-
- 6 ments made by this title, including the following appro-
- 7 priations:
- 8 (1) In each of the 5 years beginning on the date 9 of the enactment of this Act, the appropriations nec-10 essary to increase to a level not less than 5,000, by 11 the end of such 5-year period, the total number of 12 personnel of the Department assigned exclusively or 13 principally to an office or offices in U.S. Citizenship 14 and Immigration Services and U.S. Immigration and 15 Customs Enforcement (and consistent with the mis-16 sions of such agencies), dedicated to administering 17 the System, and monitoring and enforcing compli-18 ance with sections 274A, 274B, and 274C of the 19 Immigration and Nationality Act (8 U.S.C. 1324a, 20 1324b, and 1324c), including compliance with the 21 requirements of the Electronic Verification System 22 established under section 274A(d) of the Immigra-23 tion and Nationality Act (8 U.S.C. 1324a(d)), as

amended by section 3101. Such personnel shall per-

1	form compliance and monitoring functions, including
2	the following:
3	(A) Verify compliance of employers partici-
4	pating in such System with the requirements
5	for participation that are prescribed by the Sec-
6	retary.
7	(B) Monitor such System for multiple uses
8	of social security account numbers and immi-
9	gration identification numbers that could indi-
10	cate identity theft or fraud.
11	(C) Monitor such System to identify dis-
12	criminatory or unfair practices.
13	(D) Monitor such System to identify em-
14	ployers who are not using such System prop-
15	erly, including employers who fail to make
16	available appropriate records with respect to
17	their queries and any notices of confirmation,
18	nonconfirmation, or further action.
19	(E) Identify instances in which an em-
20	ployee alleges that an employer violated the em-
21	ployee's privacy or civil rights, or misused such
22	System, and create procedures for an employee
23	to report such an allegation.
24	(F) Analyze and audit the use of such Sys-
25	tem and the data obtained through such System

- to identify fraud trends, including fraud trends
 across industries, geographical areas, or employer size.

 (G) Analyze and audit the use of such Sys-
 - (G) Analyze and audit the use of such System and the data obtained through such System to develop compliance tools as necessary to respond to changing patterns of fraud.
 - (H) Provide employers with additional training and other information on the proper use of such System, including training related to privacy and employee rights.
 - (I) Perform threshold evaluation of cases for referral to the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice or the Equal Employment Opportunity Commission, and other officials or agencies with responsibility for enforcing anti-discrimination, civil rights, privacy, or worker protection laws, as may be appropriate.
 - (J) Any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

	000
1	(K) Investigate identity theft and fraud de-
2	tected through such System and undertake the
3	necessary enforcement or referral actions.
4	(L) Investigate use of or access to fraudu-
5	lent documents and undertake the necessary en-
6	forcement actions.
7	(M) Perform any other investigations that
8	the Secretary determines are necessary to en-
9	sure the lawful functioning of such System, and
10	undertake any enforcement actions necessary as
11	a result of such investigations.
12	(2) The appropriations necessary to acquire, in-
13	stall, and maintain technological equipment nec-
14	essary to support the functioning of such System
15	and the connectivity between U.S. Citizenship and
16	Immigration Services and U.S. Immigration and
17	Customs Enforcement, the Department of Justice,
18	and other agencies or officials with respect to the
19	sharing of information to support such System and
20	related immigration enforcement actions.
21	(3) The appropriations necessary to establish a
22	robust redress process for employees who wish to ap-
23	peal contested nonconfirmations to ensure the accu-

racy and fairness of such System.

- 1 (4) The appropriations necessary to provide a
 2 means by which individuals may access their own
 3 employment authorization data to ensure the accu4 racy of such data, independent of an individual's em5 ployer.
 - (5) The appropriations necessary to carry out the identity authentication mechanisms described in section 274A(c)(1)(F) of the Immigration and Nationality Act, as amended by section 3101(a).
 - (6) The appropriations necessary for the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.
 - (7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.
- 19 (c) Establishment of Reimbursable Agree-20 ment Between the Department of Homeland Se-21 curity and the Social Security Administration.— 22 Effective for fiscal years beginning on or after the date 23 of enactment of this Act, the Secretary and the Commis-
- 24 sioner of Social Security shall enter into and maintain an
- 25 agreement that—

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1	(1) provides funds to the Commissioner for the
2	full costs of the responsibilities of the Commissioner
3	under this section, including—
4	(A) acquiring, installing, and maintaining
5	technological equipment and systems necessary
6	for the fulfillment of the responsibilities of the
7	Commissioner under this section; and
8	(B) responding to individuals who contest
9	a further action notice provided by the employ-
10	ment verification system established under sec-
11	tion 274A of the Immigration and Nationality
12	Act, as amended by section 3101;
13	(2) provides such funds quarterly in advance of
14	the applicable quarter based on estimating method-
15	ology agreed to by the Commissioner and the Sec-
16	retary; and
17	(3) requires an annual accounting and reconcili-
18	ation of the actual costs incurred and the funds pro-
19	vided under the agreement which shall be reviewed
20	by the Office of the Inspector General of the Social
21	Security Administration and the Department.
22	(d) Authorization of Appropriations to the
23	Attorney General.—There are authorized to be appro-
24	priated to the Attorney General such sums as may be nec-
25	essary to carry out the provisions of this title and the

- 1 amendments made by this title, including enforcing com-
- 2 pliance with section 274B of the Immigration and Nation-
- 3 ality Act, as amended by section 3105.
- 4 (e) Authorization of Appropriations to the
- 5 Secretary of State.—There are authorized to be ap-
- 6 propriated to the Secretary of State such sums as may
- 7 be necessary to carry out the provisions of this title and
- 8 the amendments made by this title.
- 9 SEC. 3302. EFFECTIVE DATE.
- 10 Except as otherwise specifically provided, this title
- 11 and the amendments made by this title shall take effect
- 12 on the date of the enactment of this Act.
- 13 SEC. 3303. MANDATORY EXIT SYSTEM.
- 14 (a) Establishment.—
- 15 (1) IN GENERAL.—Not later than December 31,
- 16 2015, the Secretary shall establish a mandatory exit
- data system that shall include a requirement for the
- collection of data from machine-readable visas, pass-
- 19 ports, and other travel and entry documents for all
- categories of aliens who are exiting from air and sea
- 21 ports of entry.
- 22 (2) BIOMETRIC EXIT DATA SYSTEM.—Not later
- 23 than 2 years after the date of the enactment of this
- Act, the Secretary shall establish a mandatory bio-
- 25 metric exit data system at the 10 United States air-

- ports that support the highest volume of international air travel, as determined by Department of Transportation international flight departure data.
 - (3) IMPLEMENTATION REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report the implementation of the biometric exit data system referred to in paragraph (2), the impact of such system on any additional wait times for travelers, and projections for new officer personnel, including U.S. Customs and Border Protection officers.
 - (4) EFFECTIVENESS REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress that analyzes the effectiveness of biometric exit data collection at the 10 airports referred to in paragraph (2).
 - (5) Mandatory biometric exit data system.—Absent intervening action by Congress, the Secretary, not later than 6 years after the date of the enactment of this Act, shall establish a mandatory biometric exit data system at all the Core 30

1	international airports in the United States, as so
2	designated by the Federal Aviation Administration.
3	(6) Expansion of biometric exit data sys-
4	TEM TO MAJOR SEA AND LAND PORTS.—Not later
5	than 6 years after the date of the enactment of this
6	Act, the Secretary shall submit a plan to Congress
7	for the expansion of the biometric exit system to
8	major sea and land entry and exit points within the
9	United States based upon—
10	(A) the performance of the program estab-
11	lished pursuant to paragraph (2);
12	(B) the findings of the study conducted
13	pursuant to paragraph (4); and
14	(C) the projected costs to develop and de-
15	ploy an effective biometric exit data system.
16	(7) Data collection.—There are authorized
17	to be appropriated, from the Comprehensive Immi-
18	gration Reform Trust Fund established under sec-
19	tion 6(a)(1), such sums as may be necessary to
20	carry out this section
21	(b) Integration and Interoperability.—
22	(1) Integration of data system.—The Sec-
23	retary shall fully integrate all data from databases
24	and data systems that process or contain informa-
25	tion on aliens, which are maintained by—

1	(A) the Department, at—
2	(i) the U.S. Immigration and Customs
3	Enforcement;
4	(ii) the U.S. Customs and Border
5	Protection; and
6	(iii) the U.S. Citizenship and Immi-
7	gration Services;
8	(B) the Department of Justice, at the Ex-
9	ecutive Office for Immigration Review; and
10	(C) the Department of State, at the Bu-
11	reau of Consular Affairs.
12	(2) Interoperable component.—The fully
13	integrated data system under paragraph (1) shall be
14	an interoperable component of the exit data system.
15	(3) Interoperable data system.—The Sec-
16	retary shall fully implement an interoperable elec-
17	tronic data system to provide current and immediate
18	access to information in the databases of Federal
19	law enforcement agencies and the intelligence com-
20	munity that is relevant to determine—
21	(A) whether to issue a visa; or
22	(B) the admissibility or deportability of an
23	alien.
24	(4) Training.—The Secretary shall establish
25	ongoing training modules on immigration law to im-

prove adjudications at United States ports of entry
consulates, and embassies.
(c) Information Sharing.—The Secretary shall re-
port to the appropriate Federal law enforcement agency.
intelligence agency, national security agency, or compo-
nent of the Department of Homeland Security any alien
who was lawfully admitted into the United States and
whose individual data in the integrated exit data system
shows that he or she has not departed the country when
he or she was legally required to do so, and shall ensure
that—
(1) if the alien has departed the United States
when he or she was legally required to do so, the in-
formation contained in the integrated exit data sys-
tem is updated to reflect the alien's departure; or
(2) if the alien has not departed the United
States when he or she was legally required to do so
reasonably available enforcement resources are em-
ployed to locate the alien and to commence removal
proceedings against the alien.

1	SEC. 3304. IDENTITY-THEFT RESISTANT MANIFEST INFOR-
2	MATION FOR PASSENGERS, CREW, AND NON-
3	CREW ONBOARD DEPARTING AIRCRAFT AND
4	VESSELS.
5	(a) Definitions.—Except as otherwise specifically
6	provided, in this section:
7	(1) Identity-theft resistant collection
8	LOCATION.—The term "identity-theft resistant col-
9	lection location" means a location within an airport
10	or seaport—
11	(A) within the path of the departing alien,
12	such that the alien would not need to signifi-
13	cantly deviate from that path to comply with
14	exit requirements at which air or vessel carrier
15	employees, as applicable, either presently or
16	routinely are available if an alien needs proc-
17	essing assistance; and
18	(B) which is equipped with technology that
19	can securely collect and transmit identity-theft
20	resistant departure information to the Depart-
21	ment.
22	(2) US-VISIT.—The term "US-VISIT" means
23	the United States-Visitor and Immigrant Status In-
24	dicator Technology system.
25	(b) Identity Theft Resistant Manifest Infor-
26	MATION.—

1	(1) Passport or visa collection require-
2	MENT.—Except as provided in subsection (c), an ap-
3	propriate official of each commercial aircraft or ves-
4	sel departing from the United States to any port or
5	place outside the United States shall ensure trans-
6	mission to U.S. Customs and Border Protection of
7	identity-theft resistant departure manifest informa-
8	tion covering alien passengers, crew, and non-crew.
9	Such identity-theft resistant departure manifest in-
10	formation—
11	(A) shall be transmitted to U.S. Customs

- and Border Protection at the place and time specified in paragraph (3) by means approved by the Secretary; and
- (B) shall set forth the information specified in paragraph (4) or other information as required by the Secretary.
- (2) Manner of Collection.—Carriers boarding alien passengers, crew, and noncrew subject to the requirement to provide information upon departure for US-VISIT processing shall collect identitytheft resistant departure manifest information from each alien at an identity-theft resistant collection location at the airport or seaport before boarding that alien on transportation for departure from the

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United States, at a time as close to the originally scheduled departure of that passenger's aircraft or sea vessel as practicable.

(3) Time and manner of submission.—

- (A) In General.—The appropriate official specified in paragraph (1) shall ensure transmission of the identity-theft resistant departure manifest information required and collected under paragraphs (1) and (2) to the Data Center or Headquarters of U.S. Customs and Border Protection, or such other data center as may be designated.
- (B) Transmission.—The biometric departure information may be transmitted to the Department over any means of communication authorized by the Secretary for the transmission of other electronic manifest information containing personally identifiable information and under transmission standards currently applicable to other electronic manifest information.
- (C) Submission along with other information.—Files containing the identity-theft resistant departure manifest information—

1	(i) may be sent with other electronic
2	manifest data prior to departure or may be
3	sent separately from any topically related
4	electronic manifest data; and
5	(ii) may be sent in batch mode.
6	(4) Information required.—The identity-
7	theft resistant departure information required under
8	paragraphs (1) through (3) for each covered pas-
9	senger or crew member shall contain alien data from
10	machine-readable visas, passports, and other travel
11	and entry documents issued to the alien.
12	(c) Exception.—The identity-theft resistant depar-
13	ture information specified in this section is not required
14	for any alien active duty military personnel traveling as
15	passengers on board a departing Department of Defense
16	commercial chartered aircraft.
17	(d) Carrier Maintenance and Use of Identity-
18	THEFT RESISTANT DEPARTURE MANIFEST INFORMA-
19	TION.—Carrier use of identity-theft resistant departure
20	manifest information for purposes other than as described
21	in standards set by the Secretary is prohibited. Carriers
22	shall immediately notify the Chief Privacy Officer of the
23	Department in writing in the event of unauthorized use
24	or access, or breach, of identity-theft resistant departure
25	manifest information.

1	(e)	COLLE	CTION	AT	SPECIFIED	LOCAT	ION.—If	the

- 2 Secretary determines that an air or vessel carrier has not
- 3 adequately complied with the provisions of this section, the
- 4 Secretary may, in the Secretary's discretion, require the
- 5 air or vessel carrier to collect identity-theft resistant de-
- 6 parture manifest information at a specific location prior
- 7 to the issuance of a boarding pass or other document on
- 8 the international departure, or the boarding of crew, in
- 9 any port through which the carrier boards aliens for inter-
- 10 national departure under the supervision of the Secretary
- 11 for such period as the Secretary considers appropriate to
- 12 ensure the adequate collection and transmission of biomet-
- 13 ric departure manifest information.
- 14 (f) Funding.—There shall be appropriated to the In-
- 15 terior Enforcement Account \$500,000,000 to reimburse
- 16 carriers for their reasonable actual expenses in carrying
- 17 out their duties as described in this section.
- 18 (g) Determination of Budgetary Effects.—
- 19 (1) Emergency designation for congres-
- 20 SIONAL ENFORCEMENT.—In the Senate, amounts
- 21 made available under this section are designated as
- an emergency requirement pursuant to section
- 23 403(a) of S. Con. Res. 13 (111th Congress), the
- 24 concurrent resolution on the budget for fiscal year
- 25 2010.

1 (2) EMERGENCY DESIGNATION FOR STATUTORY
2 PAYGO.—Amounts made available under this section
3 are designated as an emergency requirement under
4 section 4(g) of the Statutory Pay-As-You-Go Act of
5 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

6 SEC. 3305. PROFILING.

7 (a) Prohibition.—In making routine or sponta8 neous law enforcement decisions, such as ordinary traffic
9 stops, Federal law enforcement officers may not use race
10 or ethnicity to any degree, except that officers may rely
11 on race and ethnicity if a specific suspect description ex12 ists.

(b) Exceptions.—

- (1) Specific investigation.—In conducting activities in connection with a specific investigation, Federal law enforcement officers may consider race and ethnicity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization. This standard applies even where the use of race or ethnicity might otherwise be lawful.
- (2) National security.—In investigating or preventing threats to national security or other catastrophic events (including the performance of duties

- related to air transportation security), or in enforcing laws protecting the integrity of the Nation's borders, Federal law enforcement officers may not consider race or ethnicity except to the extent permitted by the Constitution and laws of the United States.
 - (3) Defined term.—In this section, the term "Federal law enforcement officer" means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal law.

 (c) Study and Regulations.—
 - (1) Data collection.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall begin collecting data regarding the individualized immigration enforcement activities of covered Department officers.
- (2) STUDY.—Not later than 180 days after data collection under paragraph (1) commences, the Secretary shall complete a study analyzing the data.
- (3) REGULATIONS.—Not later than 90 days after the date the study required by paragraph (2) is completed, the Secretary, in consultation with the Attorney General, shall issue regulations regarding the use of race, ethnicity, and any other suspect

1	classifications the Secretary deems appropriate by
2	covered Department officers.
3	(4) Reports.—Not later than 30 days after
4	completion of the study required by paragraph (2),
5	the Secretary shall submit the study to—
6	(A) the Committee on Homeland Security
7	and Governmental Affairs of the Senate;
8	(B) the Committee on Homeland Security
9	of the House of Representatives;
10	(C) the Committee on Appropriations of
11	the Senate;
12	(D) the Committee on Appropriations of
13	the House of Representatives;
14	(E) the Committee on the Judiciary of the
15	Senate; and
16	(F) the Committee on the Judiciary of the
17	House of Representatives.
18	(5) Defined Term.—In this subsection, the
19	term "covered Department officer" means any offi-
20	cer, agent, or employee of United States Customs
21	and Border Protection, United States Immigration
22	and Customs Enforcement, or the Transportation
23	Security Administration

1	SEC. 3306. ENHANCED PENALTIES FOR CERTAIN DRUG OF						
2	FENSES ON FEDERAL LANDS.						
3	(a) Cultivating or Manufacturing Controller						
4	Substances on Federal Property.—Section						
5	401(b)(5) of the Controlled Substances Act (21 U.S.C						
6	841(b)(5)) is amended by striking "as provided in this						
7	subsection" and inserting "for not more than 10 years						
8	in addition to any other term of imprisonment imposed						
9	under this subsection,".						
10	(b) Use of Hazardous Substances.—Pursuant to						
11	its authority under section 994 of title 28, United States						
12	Code, the United States Sentencing Commission shall						
13	amend the Federal Sentencing Guidelines and policy state						
14	ments to ensure that the guidelines provide an additional						
15	penalty increase of 2 offense levels above the sentence oth						
16	erwise applicable for a violation of section 401(a) of the						
17	Controlled Substances Act (21 U.S.C. 841(a)) if the of						
18	fense—						
19	(1) includes the use of a poison, chemical, or						
20	other hazardous substance to cultivate or manufac-						
21	ture controlled substances on Federal property;						
22	(2) creates a hazard to humans, wildlife, or do-						
23	mestic animals;						
24	(3) degrades or harms the environment or nat-						
25	ural resources; or						

1	(4) pollutes an aquifer, spring, stream, river, o
2	body of water.
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- 3 (c) Stream Diversion or Clear Cutting on4 Federal Property.—
- 5 (1) PROHIBITION ON STREAM DIVERSION OR
 6 CLEAR CUTTING ON FEDERAL PROPERTY.—Section
 7 401(b) of the Controlled Substances Act is amended
 8 by adding at the end the following:
- 9 "(8) Destruction of Bodies of Water.— 10 Any person who violates subsection (a) in a manner 11 that diverts, redirects, obstructs, or drains an aqui-12 fer, spring, stream, river, or body of water or clear 13 cuts timber while cultivating or manufacturing a 14 controlled substance on Federal property shall be 15 fined in accordance with title 18, United States Code.". 16
 - (2) Federal sentencing guidelines en-Hancement.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels for above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C.

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- 1 841(a)) if the offense involves the diversion, redirec-
- 2 tion, obstruction, or draining of an aquifer, spring,
- 3 stream, river, or body of water or the clear cut of
- 4 timber while cultivating or manufacturing a con-
- 5 trolled substance on Federal property.
- 6 (d) Booby Traps on Federal Land.—Section
- 7 401(d)(1) of the Controlled Substances Act (21 U.S.C.
- 8 841(d)(1)) is amended by inserting "cultivated," after "is
- 9 being".
- 10 (e) Use or Possession of Firearms in Connec-
- 11 TION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pur-
- 12 suant to its authority under section 994 of title 28, United
- 13 States Code, the United States Sentencing Commission
- 14 shall amend the Federal Sentencing Guidelines and policy
- 15 statements to ensure that the guidelines provide an addi-
- 16 tional penalty increase of 2 offense levels above the sen-
- 17 tence otherwise applicable for a violation of section 401(a)
- 18 of the Controlled Substances Act (21 U.S.C. 841(a)) if
- 19 the offense involves the possession of a firearm while culti-
- 20 vating or manufacturing controlled substances on Federal
- 21 lands.

Subtitle D—Asylum and Refugee 1 **Provisions** 2 3 SEC. 3400. SHORT TITLE. This subtitle may be cited as the "Frank R. Lauten-4 berg Asylum and Refugee Reform Act". 5 SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF 7 GENUINE ASYLUM CLAIMS. 8 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amend-9 ed— (1) in subparagraph (A), by inserting "or the 10 Secretary of Homeland Security" after "Attorney 11 12 General" both places such term appears; 13 (2) by striking subparagraphs (B) and (D); 14 (3) by redesignating subparagraph (C) as sub-15 paragraph (B); 16 (4) in subparagraph (B), as redesignated, by striking "subparagraph (D)" and inserting "sub-17 18 paragraphs (C) and (D)"; and 19 (5) by inserting after subparagraph (B), as re-20 designated, the following: 21 "(C) Changed circumstances.—Not-22 withstanding subparagraph (B), an application 23 for asylum of an alien may be considered if the 24

alien demonstrates, to the satisfaction of the

Attorney General or the Secretary of Homeland

1	Security, the existence of changed cir-
2	cumstances that materially affect the appli-
3	cant's eligibility for asylum.
4	"(D) MOTION TO REOPEN CERTAIN MERI-
5	TORIOUS CLAIMS.—Notwithstanding subpara-
6	graph (B) or section 240(c)(7), an alien may
7	file a motion to reopen an asylum claim during
8	the 2-year period beginning on the date of the
9	enactment of the Border Security, Economic
10	Opportunity, and Immigration Modernization
11	Act if the alien—
12	"(i) was denied asylum based solely
13	upon a failure to meet the 1-year applica-
14	tion filing deadline in effect on the date on
15	which the application was filed;
16	"(ii) was granted withholding of re-
17	moval pursuant to section 241(b)(3) and
18	has not obtained lawful permanent resi-
19	dence in the United States pursuant to any
20	other provision of law;
21	"(iii) is not subject to the safe third
22	country exception under subparagraph (A)
23	or a bar to asylum under subsection (b)(2)
24	and should not be denied asylum as a mat-
25	ter of discretion; and

1	"(iv) is physically present in the
2	United States when the motion is filed.".
3	SEC. 3402. REFUGEE FAMILY PROTECTIONS.
4	(a) Children of Refugee or Asylee Spouses
5	AND CHILDREN.—A child of an alien who qualifies for ad-
6	mission as a spouse or child under section 207(c)(2)(A)
7	or 208(b)(3) of the Immigration and Nationality Act (8
8	U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to
9	the same status as such alien if the child—
10	(1) is accompanying or following to join such
11	alien; and
12	(2) is otherwise eligible under section
13	207(c)(2)(A) or $208(b)(3)$ of the Immigration and
14	Nationality Act.
15	SEC. 3403. CLARIFICATION ON DESIGNATION OF CERTAIN
16	REFUGEES.
17	(a) Termination of Certain Preferential
18	Treatment in Immigration of Amerasians.—Section
19	584 of the Foreign Operations, Export Financing, and Re-
20	lated Programs Appropriations Act, 1988 (8 U.S.C. 1101
21	note) is amended by adding at the end the following:
22	"(f) No visa may be issued under this section if the
23	petition or application for such visa is submitted on or
24	after the date of the enactment of the Border Security.

1	Economic Opportunity, and Immigration Modernization
2	Act.".
3	(b) Refugee Designation.—Section 207(c)(1) (8
4	U.S.C. 1157(c)(1)) is amended—
5	(1) by inserting "(A)" before "Subject to the
6	numerical limitations"; and
7	(2) by adding at the end the following:
8	"(B)(i) The President, upon a recommendation of the
9	Secretary of State made in consultation with the Secretary
10	of Homeland Security, and after appropriate consultation,
11	may designate specifically defined groups of aliens—
12	"(I) whose resettlement in the United States is
13	justified by humanitarian concerns or is otherwise in
14	the national interest; and
15	"(II) who—
16	"(aa) share common characteristics that
17	identify them as targets of persecution on ac-
18	count of race, religion, nationality, membership
19	in a particular social group, or political opinion;
20	or
21	"(bb) having been identified as targets as
22	described in item (aa), share a common need
23	for resettlement due to a specific vulnerability.
24	"(ii) An alien who establishes membership in a group
25	designated under clause (i) to the satisfaction of the Sec-

- 1 retary of Homeland Security shall be considered a refugee
- 2 for purposes of admission as a refugee under this section
- 3 unless the Secretary determines that such alien ordered,
- 4 incited, assisted, or otherwise participated in the persecu-
- 5 tion of any person on account of race, religion, nationality,
- 6 membership in a particular social group, or political opin-
- 7 ion.
- 8 "(iii) A designation under clause (i) is for purposes
- 9 of adjudicatory efficiency and may be revoked by the
- 10 President at any time after notification to Congress.
- 11 "(iv) Categories of aliens established under section
- 12 599D of the Foreign Operations, Export Financing, and
- 13 Related Programs Appropriations Act, 1990 (Public Law
- 14 101–167; 8 U.S.C. 1157 note)—
- "(I) shall be designated under clause (i) until
- the end of the first fiscal year commencing after the
- date of the enactment of the Border Security, Eco-
- 18 nomic Opportunity, and Immigration Modernization
- 19 Act; and
- 20 "(II) shall be eligible for designation thereafter
- at the discretion of the President, considering,
- among other factors, whether a country under con-
- sideration has been designated by the Secretary of
- 24 State as a 'Country of Particular Concern' for en-

- 1 gaging in or tolerating systematic, ongoing, and
- 2 egregious violations of religious freedom.
- 3 "(v) A designation under clause (i) shall not influence
- 4 decisions to grant, to any alien, asylum under section 208,
- 5 protection under section 241(b)(3), or protection under
- 6 the Convention Against Torture and Other Cruel, Inhu-
- 7 man or Degrading Treatment or Punishment, done at
- 8 New York December 10, 1984.
- 9 "(vi) A decision to deny admission under this section
- 10 to an alien who establishes to the satisfaction of the Sec-
- 11 retary that the alien is a member of a group designated
- 12 under clause (i) shall—
- 13 "(I) be in writing; and
- 14 "(II) state, to the maximum extent feasible, the
- reason for the denial.
- 16 "(vii) Refugees admitted pursuant to a designation
- 17 under clause (i) shall be subject to the number of admis-
- 18 sions and be admissible under this section.".
- 19 SEC. 3404. ASYLUM DETERMINATION EFFICIENCY.
- 20 Section 235(b)(1)(B)(ii) (8 U.S.C. 1225(b)(1)(B)(ii))
- 21 is amended by striking "asylum." and inserting "asylum
- 22 by an asylum officer. The asylum officer, after conducting
- 23 a nonadversarial asylum interview and seeking supervisory
- 24 review, may grant asylum to the alien under section 208
- 25 or refer the case to a designee of the Attorney General,

1	for a de novo asylum determination, for relief under the
2	Convention Against Torture and Other Cruel, Inhuman or
3	Degrading Treatment or Punishment, done at New York
4	December 10, 1984, or for protection under section
5	241(b)(3).".
6	SEC. 3405. STATELESS PERSONS IN THE UNITED STATES.
7	(a) In General.—Chapter 1 of title II (8 U.S.C.
8	1151 et seq.) is amended by adding at the end the fol-
9	lowing:
10	"SEC. 210A. PROTECTION OF CERTAIN STATELESS PER-
11	SONS IN THE UNITED STATES.
12	"(a) Stateless Persons.—
13	"(1) In general.—In this section, the term
14	'stateless person' means an individual who is not
15	considered a national under the operation of the
16	laws of any country.
17	"(2) Designation of specific stateless
18	GROUPS.—The Secretary of Homeland Security, in
19	consultation with the Secretary of State, may, in the
20	discretion of the Secretary, designate specific groups
21	of individuals who are considered stateless persons,
22	for purposes of this section.
23	"(b) Status of Stateless Persons.—
24	"(1) Relief for certain individuals de-
25	TERMINED TO BE STATELESS PERSONS.—The Sec-

1	retary of Homeland Security or the Attorney Gen-
2	eral may, in his or her discretion, provide conditional
3	lawful status to an alien who is otherwise inadmis-
4	sible or deportable from the United States if the
5	alien—
6	"(A) is a stateless person present in the
7	United States;
8	"(B) applies for such relief;
9	"(C) has not lost his or her nationality as
10	a result of his or her voluntary action or know-
11	ing inaction after arrival in the United States;
12	"(D) except as provided in paragraphs (2)
13	and (3), is not inadmissible under section
14	212(a); and
15	"(E) is not described in section
16	241(b)(3)(B)(i).
17	"(2) Inapplicability of Certain Provi-
18	SIONS.—The provisions under paragraphs (4), (5),
19	(7), and (9)(B) of section 212(a) shall not apply to
20	any alien seeking relief under paragraph (1).
21	"(3) Waiver.—The Secretary or the Attorney
22	General may waive any other provisions of such sec-
23	tion, other than subparagraphs (B), (C), (D)(ii),
24	(E), (G), (H), or (I) of paragraph (2), paragraph
25	(3), paragraph (6)(C)(i) (with respect to misrepre-

1	sentations relating to the application for relief under
2	paragraph (1)), or subparagraphs (A), (C), (D), or
3	(E) of paragraph (10) of section 212(a), with re-
4	spect to such an alien for humanitarian purposes, to
5	assure family unity, or if it is otherwise in the public
6	interest.
7	"(4) Submission of passport or travel
8	DOCUMENT.—Any alien who seeks relief under this
9	section shall submit to the Secretary of Homeland
10	Security or the Attorney General—
11	"(A) any available passport or travel docu-
12	ment issued at any time to the alien (whether
13	or not the passport or document has expired or
14	been cancelled, rescinded, or revoked); or
15	"(B) an affidavit, sworn under penalty of
16	perjury—
17	"(i) stating that the alien has never
18	been issued a passport or travel document;
19	or
20	"(ii) identifying with particularity any
21	such passport or travel document and ex-
22	plaining why the alien cannot submit it.
23	"(5) Work authorization.—The Secretary of
24	Homeland Security may authorize an alien who has
25	applied for and is found prima facie eligible for or

1	been granted relief under paragraph (1) to engage
2	in employment in the United States.
3	"(6) Travel documents.—The Secretary may
4	issue appropriate travel documents to an alien who
5	has been granted relief under paragraph (1) that
6	would allow him or her to travel abroad and be ad
7	mitted to the United States upon return, if other
8	wise admissible.
9	"(7) Treatment of spouse and chil
10	DREN.—The spouse or child of an alien who has
11	been granted conditional lawful status under para
12	graph (1) shall, if not otherwise eligible for admis
13	sion under paragraph (1), be granted conditiona
14	lawful status under this section if accompanying, or
15	following to join, such alien if—
16	"(A) the spouse or child is admissible (ex
17	cept as otherwise provided in paragraphs (2)
18	and (3)) and is not described in section
19	241(b)(3)(B)(i); and
20	"(B) the qualifying relationship to the
21	principal beneficiary existed on the date or
22	which such alien was granted conditional lawfu
23	status.
24	"(c) Adjustment of Status —

1	"(1) Inspection and examination.—At the
2	end of the 1-year period beginning on the date on
3	which an alien has been granted conditional lawful
4	status under subsection (b), the alien may apply for
5	lawful permanent residence in the United States if—
6	"(A) the alien has been physically present
7	in the United States for at least 1 year;
8	"(B) the alien's conditional lawful status
9	has not been terminated by the Secretary of
10	Homeland Security or the Attorney General,
11	pursuant to such regulations as the Secretary
12	or the Attorney General may prescribe; and
13	"(C) the alien has not otherwise acquired
14	permanent resident status.
15	"(2) Requirements for adjustment of
16	STATUS.—The Secretary of Homeland Security or
17	the Attorney General, under such regulations as the
18	Secretary or the Attorney General may prescribe,
19	may adjust the status of an alien granted condi-
20	tional lawful status under subsection (b) to that of
21	an alien lawfully admitted for permanent residence
22	if such alien—
23	"(A) is a stateless person;
24	"(B) properly applies for such adjustment
25	of status;

1	"(C) has been physically present in the
2	United States for at least 1 year after being
3	granted conditional lawful status under sub-
4	section (b);
5	"(D) is not firmly resettled in any foreign
6	country; and
7	"(E) is admissible (except as otherwise
8	provided under paragraph (2) or (3) of sub-
9	section (b)) as an immigrant under this chapter
10	at the time of examination of such alien for ad-
11	justment of status.
12	"(3) Record.—Upon approval of an applica-
13	tion under this subsection, the Secretary of Home-
14	land Security shall establish a record of the alien's
15	admission for lawful permanent residence as of the
16	date that is 1 year before the date of such approval.
17	"(4) Numerical limitation.—The number of
18	aliens who may receive an adjustment of status
19	under this section for a fiscal year shall be subject
20	to the numerical limitation of section 203(b)(4).
21	"(d) Proving the Claim.—In determining an
22	alien's eligibility for lawful conditional status or adjust-
23	ment of status under this subsection, the Secretary of
24	Homeland Security or the Attorney General shall consider
25	any credible evidence relevant to the application. The de-

- termination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion 3 of the Secretary or the Attorney General. 4 "(e) Review.— 5 "(1) Administrative review.—No shall lie from the denial of an application by the 6 7 Secretary, but such denial will be without prejudice 8 to the alien's right to renew the application in pro-9 ceedings under section 240. 10 "(2) MOTIONS TO REOPEN.—Notwithstanding 11 any limitation imposed by law on motions to reopen 12 removal, deportation, or exclusion proceedings, any 13 individual who is eligible for relief under this section 14 may file a motion to reopen proceedings in order to 15 apply for relief under this section. Any such motion 16 shall be filed within 2 years of the date of the enact-17 ment of the Border Security, Economic Opportunity, 18 and Immigration Modernization Act. 19 "(f) Limitation.— 20 "(1) APPLICABILITY.—The provisions of this 21 section shall only apply to aliens present in the
- 23 "(2) SAVINGS PROVISION.—Nothing in this sec-24 tion may be construed to authorize or require—

United States.

- "(A) the admission of any alien to the 1 2 United States; "(B) the parole of any alien into the 3 4 United States; or 5 "(C) the grant of any motion to reopen or 6 reconsider filed by an alien after departure or 7 removal from the United States.". 8 (b) JUDICIAL REVIEW.—Section 242(a)(2)(B)(ii) (8 U.S.C. 1252(a)(2)(B)(ii) is amended by "208(a)." and inserting "208(a) or 210A.". 10 11 (c) Conforming Amendment.—Section 203(b)(4) 12 (8 U.S.C. 1153(b)(4)) is amended by inserting "to aliens granted an adjustment of status under section 210A(c) or" after "level,". 14 15 (d) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by 16 inserting after the item relating to section 210 the fol-
 - "Sec. 210A. Protection of stateless persons in the United States.".

19 SEC. 3406. U VISA ACCESSIBILITY.

- 20 Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is
- 21 amended by striking "10,000." and inserting "18,000, of
- 22 which not more than 3,000 visas may be issued for aliens
- 23 who are victims of a covered violation described in section
- 24 101(a)(15)(U).".

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lowing:

1	SEC. 3407. WORK AUTHORIZATION WHILE APPLICATIONS
2	FOR U AND T VISAS ARE PENDING.
3	(a) U VISAS.—Section 214(p) (8 U.S.C. 1184(p)), as
4	amended by section 3406 of this Act, is further amend-
5	ed—
6	(1) in paragraph (6), by striking the last sen-
7	tence; and
8	(2) by adding at the end the following:
9	"(7) Work authorization.—Notwithstanding
10	any provision of this Act granting eligibility for em-
11	ployment in the United States, the Secretary of
12	Homeland Security shall grant employment author-
13	ization to an alien who has filed an application for
14	nonimmigrant status under section $101(a)(15)(U)$
15	on the date that is the earlier of—
16	"(A) the date on which the alien's applica-
17	tion for such status is approved; or
18	"(B) a date determined by the Secretary
19	that is not later than 180 days after the date
20	on which the alien filed the application.".
21	(b) T VISAS.—Section 214(o) (8 U.S.C. 1184(o)) is
22	amended by adding at the end the following:
23	"(8) Notwithstanding any provision of this Act
24	granting eligibility for employment in the United
25	States, the Secretary of Homeland Security shall
26	grant employment authorization to an alien who has

1	filed an application for nonimmigrant status under
2	section $101(a)(15)(T)$ on the date that is the earlier
3	of—
4	"(A) the date on which the alien's applica-
5	tion for such status is approved; or
6	"(B) a date determined by the Secretary
7	that is not later than 180 days after the date
8	on which the alien filed the application.".
9	SEC. 3408. REPRESENTATION AT OVERSEAS REFUGEE
10	INTERVIEWS.
11	Section 207(c) (8 U.S.C. 1157(c)) is amended by
12	adding at the end the following:
13	"(5) The adjudicator of an application for ref-
14	ugee status under this section shall consider all rel-
15	evant evidence and maintain a record of the evidence
16	considered.
17	"(6) An applicant for refugee status may be
18	represented, including at a refugee interview, at no
19	expense to the Government, by an attorney or ac-
20	credited representative who—
21	"(A) was chosen by the applicant; and
22	"(B) is authorized by the Secretary of
23	Homeland Security to be recognized as the rep-
24	resentative of such applicant in an adjudication
25	under this section.

1	"(7)(A) A decision to deny an application for
2	refugee status under this section—
3	"(i) shall be in writing; and
4	"(ii) shall provide, to the maximum extent
5	feasible, information on the reason for the de-
6	nial, including—
7	"(I) the facts underlying the deter-
8	mination; and
9	"(II) whether there is a waiver of in-
10	admissibility available to the applicant.
11	"(B) The basis of any negative credibility find-
12	ing shall be part of the written decision.
13	"(8)(A) An applicant who is denied refugee sta-
14	tus under this section may file a request with the
15	Secretary for a review of his or her application not
16	later than 120 days after such denial.
17	"(B) A request filed under subparagraph (A)
18	shall be adjudicated by refugee officers who have re-
19	ceived training on considering requests for review of
20	refugee applications that have been denied.
21	"(C) The Secretary shall publish the standard
22	applied to a request for review.
23	"(D) A request for review may result in the de-
24	cision being granted, denied, or reopened for a fur-
25	ther interview.

1	"(E) A decision on a request for review under
2	this paragraph—
3	"(i) shall be in writing; and
4	"(ii) shall provide, to the maximum extent
5	feasible, information on the reason for the de-
6	nial.".
7	SEC. 3409. LAW ENFORCEMENT AND NATIONAL SECURITY
8	CHECKS.
9	(a) Refugees.—Section 207(c)(1) (8 U.S.C.
10	1157(c)(1)) is amended by adding at the end the fol-
11	lowing: "No alien shall be admitted as a refugee until the
12	identity of the applicant, including biographic and biomet-
13	ric data, has been checked against all appropriate records
14	or databases maintained by the Secretary of Homeland
15	Security, the Attorney General, the Secretary of State,
16	and other Federal records or databases that the Secretary
17	of Homeland Security considers necessary, to determine
18	any national security, law enforcement, or other grounds
19	on which the alien may be inadmissible to the United
20	States or ineligible to apply for or be granted refugee sta-
21	tus.".
22	(b) Asylees.—Section 208(d)(5)(A)(i) (8 U.S.C.
23	1158(d)(5)(A)(i) is amended to read as follows:
24	"(i) asylum shall not be granted until
25	the identity of the applicant, using bio-

1	graphic and biometric data, has been
2	checked against all appropriate records or
3	databases maintained by the Secretary of
4	Homeland Security, the Attorney General,
5	the Secretary of State, and other Federal
6	records or databases that the Secretary of
7	Homeland Security considers necessary, to
8	determine any national security, law en-
9	forcement, or other grounds on which the
10	alien may be inadmissible to the United
11	States or ineligible to apply for or be
12	granted asylum;".

13 SEC. 3410. TIBETAN REFUGEE ASSISTANCE.

- (a) Short Title.—This section may be cited as the"Tibetan Refugee Assistance Act of 2013".
- 16 (b) Transition for Displaced Tibetans.—Not-
- 17 withstanding the numerical limitations specified in sec-
- 18 tions 201 and 202 of the Immigration and Nationality Act
- 19 (8 U.S.C. 1151 and 1152), 5,000 immigrant visas shall
- 20 be made available to qualified displaced Tibetans described
- 21 in subsection (c) during the 3-year period beginning on
- 22 October 1, 2013.
- 23 (c) Qualified Displaced Tibetan Described.—
- 24 (1) In general.—An individual is a qualified
- displaced Tibetan if such individual—

1	(A) is a native of Tibet; and
2	(B) has been continuously residing in India
3	or Nepal since before the date of the enactment
4	of this Act.
5	(2) Native of tibet described.—For pur-
6	poses of paragraph (1)(A), an individual shall be
7	considered a native of Tibet if such individual—
8	(A) was born in Tibet; or
9	(B) is the son, daughter, grandson, or
10	granddaughter of an individual who was born in
11	Tibet.
12	(d) Derivative Status for Spouses and Chil-
13	DREN.—A spouse or child (as defined in subparagraphs
14	(A), (B), (C), (D), or (E) of section $101(b)(1)$ of the Im-
15	migration and Nationality Act (8 U.S.C. 1101(b)(1)))
16	shall, if not otherwise entitled to an immigrant status and
17	the immediate issuance of a visa under this section, be
18	entitled to the same status, and the same order of consid-
19	eration, provided under this section, if accompanying, or
20	following to join, the spouse or parent of such spouse or
21	child.
22	(e) DISTRIBUTION OF VISA NUMBERS.—The Sec-
23	retary of State shall ensure that immigrant visas provided
24	under subsection (b) are made available to qualified dis-
25	placed Tibetans described in subsection (c) or (d) in an

- 1 equitable manner, giving preference to those qualified dis-
- 2 placed Tibetans who—
- 3 (1) are not resettled in India or Nepal; or
- 4 (2) are most likely to be resettled successfully
- 5 in the United States.

6 SEC. 3411. TERMINATION OF ASYLUM OR REFUGEE STATUS.

- 7 (a) Termination of Status.—Except as provided
- 8 in subsections (b) and (c), any alien who is granted asylum
- 9 or refugee status under this Act or the Immigration and
- 10 Nationality Act (8 U.S.C. 1101 et seq.), who, without good
- 11 cause as determined by the Secretary or the Attorney Gen-
- 12 eral, subsequently returns to the country of such alien's
- 13 nationality or, in the case of an alien having no nation-
- 14 ality, returns to any country in which such alien last habit-
- 15 ually resided, and who applied for such status because of
- 16 persecution or a well-founded fear of persecution in that
- 17 country on account of race, religion, nationality, member-
- 18 ship in a particular social group, or political opinion, shall
- 19 have his or her refugee or asylum status terminated.
- 20 (b) Waiver.—The Secretary has discretion to waive
- 21 subsection (a) if it is established to the satisfaction of the
- 22 Secretary or the Attorney General that the alien had good
- 23 cause for the return. The waiver may be sought prior to
- 24 departure from the United States or upon return.

1	(c) Exception for Certain Aliens From
2	Cuba.—Subsection (a) shall not apply to an alien who is
3	eligible for adjustment to that of an alien lawfully admit-
4	ted for permanent residence pursuant to the Cuban Ad-
5	justment Act of 1966 (Public Law 89–732).
6	SEC. 3412. ASYLUM CLOCK.
7	Section 208(d)(2) (8 U.S.C. 1158(d)(2)) is amended
8	by striking "is not entitled to employment authorization"
9	and all that follows through "prior to 180 days after" and
10	inserting "shall be provided employment authorization
11	180 days after".
	Subtitle F Showters of Immigra
12	Subtitle E—Shortage of Immigra-
1213	tion Court Resources for Re-
13	tion Court Resources for Re-
13 14	tion Court Resources for Removal Proceedings
131415	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PER-
13 14 15 16	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS.
13 14 15 16 17	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS. (a) IMMIGRATION COURT JUDGES.—The Attorney
13 14 15 16 17 18	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS. (a) IMMIGRATION COURT JUDGES.—The Attorney General shall increase the total number of immigration
13 14 15 16 17 18	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS. (a) IMMIGRATION COURT JUDGES.—The Attorney General shall increase the total number of immigration judges to adjudicate current pending cases and efficiently
13 14 15 16 17 18 19 20	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS. (a) IMMIGRATION COURT JUDGES.—The Attorney General shall increase the total number of immigration judges to adjudicate current pending cases and efficiently process future cases by at least—
13 14 15 16 17 18 19 20 21	tion Court Resources for Removal Proceedings SEC. 3501. SHORTAGE OF IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS. (a) IMMIGRATION COURT JUDGES.—The Attorney General shall increase the total number of immigration judges to adjudicate current pending cases and efficiently process future cases by at least— (1) 75 in fiscal year 2014;

 $25\,$ Court Judges.—The Attorney General shall address the

- 1 shortage of support staff for immigration judges by ensur-
- 2 ing that each immigration judge has the assistance of the
- 3 necessary support staff, including the equivalent of 1 staff
- 4 attorney or law clerk and 1 legal assistant.
- 5 (c) Annual Increases in Board of Immigration
- 6 APPEALS PERSONNEL.—The Attorney General shall in-
- 7 crease the number of Board of Immigration Appeals staff
- 8 attorneys (including the necessary additional support
- 9 staff) to efficiently process cases by at least—
- 10 (1) 30 in fiscal year 2014;
- 11 (2) 30 in fiscal year 2015; and
- 12 (3) 30 in fiscal year 2016.
- 13 (d) Funding.—There shall be appropriated, from
- 14 the Comprehensive Immigration Reform Trust Fund es-
- 15 tablished under section 6(a)(1), such sums as may be nec-
- 16 essary to carry out this section.
- 17 SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY
- 18 AND REDUCING COSTS BY INCREASING AC-
- 19 CESS TO LEGAL INFORMATION.
- 20 (a) Clarification Regarding the Authority of
- 21 THE ATTORNEY GENERAL TO APPOINT COUNSEL TO
- 22 Aliens in Immigration Proceedings.—Section 292 (8)
- 23 U.S.C. 1362) is amended—
- 24 (1) by inserting "(a)" before "In any";

1	(2) by striking "(at no expense to the Govern-
2	ment)";
3	(3) by striking "he shall" and inserting "the
4	person shall"; and
5	(4) by adding at the end the following:
6	"(b) The Government is not required to provide coun-
7	sel to aliens under subsection (a). However, the Attorney
8	General may, in the Attorney General's sole and
9	unreviewable discretion, appoint or provide counsel to
10	aliens in immigration proceedings conducted under section
11	240 of this Act.".
12	(b) Appointment of Counsel in Certain Cases;
13	RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL
14	Proceedings.—Section 240(b) (8 U.S.C. 1229a(b)) is
15	amended—
16	(1) in paragraph (4)—
17	(A) by redesignating subparagraphs (B)
18	and (C) as subparagraphs (C) and (D), respec-
19	tively;
20	(B) in subparagraph (A), by striking ", at
21	no expense to the Government,";
22	(C) by inserting after subparagraph (A)
23	the following new subparagraph:
24	"(B) the alien shall, at the beginning of
25	the proceedings or at a reasonable time there-

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after, automatically receive a complete copy of all relevant documents in the possession of the Department of Homeland Security, including all documents (other than documents protected from disclosure by privilege, including national security information referenced in subparagraph (C), law enforcement sensitive information, and information prohibited from disclosure pursuant to any other provision of law) contained in the file maintained by the Government that includes information with respect to all transactions involving the alien during the immigration process (commonly referred to as an 'Afile'), and all documents pertaining to the alien that the Department of Homeland Security has obtained or received from other government agencies, unless the alien waives the right to receive such documents by executing a knowing and voluntary waiver in a language that he or she understands fluently,"; and

(D) by adding at the end the following:

"The Government is not required to provide counsel to aliens under this paragraph. However, the Attorney General may, in the Attorney General's sole and unreviewable discretion, appoint or provide counsel

- 1 at government expense to aliens in immigration pro-
- 2 ceedings."; and
- 3 (2) by adding at the end the following new
- 4 paragraph:
- 5 "(8) Failure to provide alien required
- 6 DOCUMENTS.—In the absence of a waiver under sub-
- 7 paragraph (B) of paragraph (4), a removal pro-
- 8 ceeding may not proceed until the alien has received
- 9 the documents as required under such subpara-
- 10 graph.".
- 11 (c) Appointment of Counsel for Unaccom-
- 12 PANIED ALIEN CHILDREN AND ALIENS WITH A SERIOUS
- 13 MENTAL DISABILITY.—Section 292 (8 U.S.C. 1362), as
- 14 amended by subsection (a), is further amended by adding
- 15 at the end the following:
- 16 "(c) Notwithstanding subsection (b), the Attorney
- 17 General shall appoint counsel, at the expense of the Gov-
- 18 ernment if necessary, to represent an alien in a removal
- 19 proceeding who has been determined by the Secretary to
- 20 be an unaccompanied alien child, is incompetent to rep-
- 21 resent himself or herself due to a serious mental disability
- 22 that would be included in section 3(1) of the Americans
- 23 with Disabilities Act of 1990 (42 U.S.C. 12102(1)), or is
- 24 considered particularly vulnerable when compared to other
- 25 aliens in removal proceedings, such that the appointment

- 1 of counsel is necessary to help ensure fair resolution and
- 2 efficient adjudication of the proceedings.".
- 3 (d) Funding.—There shall be appropriated, from
- 4 the Comprehensive Immigration Reform Trust Fund es-
- 5 tablished under section 6(a)(1), such sums as may be nec-
- 6 essary to carry out this section and the amendments made
- 7 by this section.

8 SEC. 3503. OFFICE OF LEGAL ACCESS PROGRAMS.

- 9 (a) Establishment of Office of Legal Access
- 10 Programs.—The Attorney General shall maintain, within
- 11 the Executive Office for Immigration Review, an Office
- 12 of Legal Access Programs to develop and administer a sys-
- 13 tem of legal orientation programs to make immigration
- 14 proceedings more efficient and cost effective by educating
- 15 aliens regarding administrative procedures and legal
- 16 rights under United States immigration law and to estab-
- 17 lish other programs to assist in providing aliens access to
- 18 legal information.
- 19 (b) Legal Orientation Programs.—The legal ori-
- 20 entation programs—
- 21 (1) shall provide programs to assist detained
- aliens in making informed and timely decisions re-
- garding their removal and eligibility for relief from
- 24 removal in order to increase efficiency and reduce
- 25 costs in immigration proceedings and Federal cus-

- tody processes and to improve access to counsel and
 other legal services;
- (2) may provide services to detained aliens in immigration proceedings under sections 235, 238, 240, and 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1225, 1228, 1229a, and 1231(a)(5)) and to other aliens in immigration and asylum proceedings under sections 235, 238, and 240 of the Immigration and Nationality Act (8
- 11 (3) shall identify unaccompanied alien children, 12 aliens with a serious mental disability, and other 13 particularly vulnerable aliens for consideration by 14 the Attorney General pursuant to section 292(c) of 15 the Immigration and Nationality Act, as added by 16 section 3502(c).

U.S.C. 1225, 1228, and 1229a); and

(c) Procedures.—The Secretary, in consultation with the Attorney General, shall establish procedures that ensure that legal orientation programs are available for all detained aliens within 5 days of arrival into custody and to inform such aliens of the basic procedures of immigration hearings, their rights relating to those hearings under the immigration laws, information that may deter such aliens from filing frivolous legal claims, and any other information deemed appropriate by the Attorney

- 1 General, such as a contact list of potential legal resources
- 2 and providers.
- 3 (d) Rule of Construction.—Nothing in this sub-
- 4 section shall be construed to create any substantive or pro-
- 5 cedural right or benefit that is legally enforceable by any
- 6 party against the United States or its agencies or officers
- 7 or any other person.
- 8 (e) Funding.—There shall be appropriated, from the
- 9 Comprehensive Immigration Reform Trust Fund estab-
- 10 lished under section 6(a)(1), such sums as may be nec-
- 11 essary to carry out this section.
- 12 SEC. 3504. CODIFYING BOARD OF IMMIGRATION APPEALS.
- 13 (a) Definition of Board Member.—Section
- 14 101(a) (8 U.S.C. 1101(a)) is amended by adding at the
- 15 end the following:
- 16 "(53) The term 'Board Member' means an at-
- torney whom the Attorney General appoints to serve
- on the Board of Immigration Appeals within the Ex-
- 19 ecutive Office of Immigration Review, and is quali-
- 20 fied to review decisions of immigration judges and
- other matters within the jurisdiction of the Board of
- 22 Immigration Appeals.".
- 23 (b) Board of Immigration Appeals.—Section
- 24 240(a)(1) (8 U.S.C. 1229a(a)(1)) is amended by adding
- 25 at the end the following: "The Board of Immigration Ap-

1	peals and its Board Members shall review decisions of im-
2	migration judges under this section.".
3	(e) Appeals.—Section 240(b)(4) (8 U.S.C.
4	1229a(b)(4)), as amended by section 3502(b), is further
5	amended—
6	(1) in subparagraph (B), by striking ", and"
7	and inserting a semicolon;
8	(2) in subparagraph (C), by striking the period
9	and inserting "; and"; and
10	(3) by inserting after subparagraph (C) the fol-
11	lowing:
12	"(D) the alien or the Department of
13	Homeland Security may appeal the immigration
14	judge's decision to a 3-judge panel of the Board
15	of Immigration Appeals.".
16	(d) Decision and Burden of Proof.—Section
17	240(c)(1)(A) (8 U.S.C. $1229a(c)(1)(A)$) is amended to
18	read as follows:
19	"(A) In general.—At the conclusion of
20	the proceeding, the immigration judge shall de-
21	cide whether an alien is removable from the
22	United States. The determination of the immi-
23	gration judge shall be based only on the evi-
24	dence produced at the hearing. On appeal, the
25	Board of Immigration Appeals shall issue a

1	written opinion. The opinion shall address all
2	dispositive arguments raised by the parties. The
3	panel may incorporate by reference the opinion
4	of the immigration judge whose decision is
5	being reviewed, provided that the panel also ad-
6	dresses any arguments made by the nonpre-
7	vailing party regarding purported errors of law,
8	fact, or discretion.".
9	SEC. 3505. IMPROVED TRAINING FOR IMMIGRATION
10	JUDGES AND BOARD MEMBERS.
11	(a) In General.—Section 240 (8 U.S.C. 1229a) is
12	amended by adding at the end the following:
13	"(f) Improved Training.—
14	"(1) Improved training for immigration
15	JUDGES AND BOARD MEMBERS.—
16	"(A) In General.—In consultation with
17	the Attorney General and the Director of the
18	Federal Judicial Center, the Director of the Ex-
19	ecutive Office for Immigration Review shall re-
20	view and modify, as appropriate, training pro-
21	grams for immigration judges and Board Mem-
22	bers.
23	"(B) Elements of Review.—Each such
24	review shall study—

1	"(i) the expansion of the training pro-
2	gram for new immigration judges and
3	Board Members;
4	"(ii) continuing education regarding
5	current developments in the field of immi-
6	gration law; and
7	"(iii) methods to ensure that immigra-
8	tion judges are trained on properly crafting
9	and dictating decisions.
10	"(2) Improved training and guidance for
11	STAFF.—The Director of the Executive Office for
12	Immigration Review shall—
13	"(A) modify guidance and training regard-
14	ing screening standards and standards of re-
15	view; and
16	"(B) ensure that Board Members provide
17	staff attorneys with appropriate guidance in
18	drafting decisions in individual cases, consistent
19	with the policies and directives of the Director
20	of the Executive Office for Immigration Review
21	and the Chairman of the Board of Immigration
22	Appeals.".
23	(b) Funding.—There shall be appropriated, from the
24	Comprehensive Immigration Reform Trust Fund estab-
25	lished under section 6(a)(1), such sums as may be nec-

1	essary to carry out this section and the amendment made
2	by this section.
3	SEC. 3506. IMPROVED RESOURCES AND TECHNOLOGY FOR
4	IMMIGRATION COURTS AND BOARD OF IMMI-
5	GRATION APPEALS.
6	(a) Improved On-Bench Reference Materials
7	AND DECISION TEMPLATES.—The Director of the Execu-
8	tive Office for Immigration Review shall ensure that immi-
9	gration judges are provided with updated reference mate-
10	rials and standard decision templates that conform to the
11	law of the circuits in which they sit.
12	(b) PRACTICE MANUAL.—The Director of the Execu-
13	tive Office for Immigration Review shall produce a prac-
14	tice manual describing best practices for the immigration
15	courts and shall make such manual available electronically
16	to counsel and litigants who appear before the immigra-
17	tion courts.
18	(e) Recording System and Other Tech-
19	NOLOGIES.—
20	(1) Plan required.—The Director of the Ex-
21	ecutive Office for Immigration Review shall provide
22	the Attorney General with a plan and a schedule to
23	replace the immigration courts' tape recording sys-
24	tem with a digital recording system that is compat-

- ible with the information management systems of
 the Executive Office for Immigration Review.
- 3 (2) Audio recording system.—Consistent
- 4 with the plan described in paragraph (1), the Direc-
- 5 tor shall pilot a digital audio recording system not
- 6 later than 1 year after the enactment of this Act,
- 7 and shall begin nationwide implementation of that
- 8 system as soon as practicable.
- 9 (d) Improved Transcription Services.—Not
- 10 later than 1 year after the enactment of this Act, the Di-
- 11 rector of the Executive Office for Immigration Review
- 12 shall report to the Attorney General on the current tran-
- 13 scription services utilized by the Office and recommend
- 14 improvements to this system regarding quality and timeli-
- 15 ness of transcription.
- 16 (e) Improved Interpreter Selection.—Not later
- 17 than 1 year after the enactment of this Act, the Director
- 18 of the Executive Office for Immigration Review shall re-
- 19 port to the Attorney General on the current interpreter
- 20 selection process utilized by the Office and recommend im-
- 21 provements to this process regarding screening, hiring,
- 22 certification, and evaluation of staff and contract inter-
- 23 preters.
- 24 (f) Funding.—There shall be appropriated, from the
- 25 Comprehensive Immigration Reform Trust Fund estab-

- 1 lished under section 6(a)(1), such sums as may be nec-
- 2 essary to carry out this section.
- 3 SEC. 3507. TRANSFER OF RESPONSIBILITY FOR TRAF-
- 4 FICKING PROTECTIONS.
- 5 (a) Transfer of Responsibility.—
- 6 (1) IN GENERAL.—All unexpended balances ap-7 propriated or otherwise available to the Department 8 of Health and Human Services and its Office of Ref-9 ugee Resettlement in connection with the functions 10 provided for in paragraphs (5) and (6) of section 11 235(c) of the William Wilberforce Trafficking Vic-12 tims Protection Reauthorization Act of 2008 (8) 13 U.S.C. 1232(c)), shall, subject to section 202 of the 14 Budget and Accounting Procedures Act of 1950, be 15 transferred to the Department of Justice. Funds 16 transferred pursuant to this paragraph shall remain 17 available until expended and shall be used only for 18 the purposes for which the funds were originally au-19 thorized and appropriated.
 - (2) CONTRACT AUTHORITY.—The Attorney General may award grants to, and enter into contracts to carry out the functions set forth in paragraphs (5) and (6) of Section 235(c) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

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1	(b) Conforming Amendments.—Section 235(c) of
2	the William Wilberforce Trafficking Victims Protection
3	Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amend-
4	ed—
5	(1) in paragraph (5)—
6	(A) by striking "Secretary of Health and
7	Human Services" each place it appears and in-
8	serting "Attorney General"; and
9	(B) by striking the last sentence; and
10	(2) in paragraph (6)—
11	(A) by striking "Secretary of Health and
12	Human Services" each place it appears and in-
13	serting "Attorney General";
14	(B) in subparagraphs (B)(ii), (D), and
15	(F), by striking "Secretary" each place it ap-
16	pears and inserting "Attorney General"; and
17	(C) in subparagraph (F), by striking "and
18	Human Services".
19	Subtitle F—Prevention of Traf-
20	ficking in Persons and Abuses
21	Involving Workers Recruited
22	Abroad
23	SEC. 3601. DEFINITIONS.
24	(a) In General.—Except as otherwise provided by
25	this subtitle, the terms used in this subtitle shall have the

- 1 same meanings, respectively, as are given those terms in
- 2 section 3 of the Fair Labor Standards Act of 1938 (29)
- 3 U.S.C. 203).

- 4 (b) Other Definitions.—
- 5 (1) FOREIGN LABOR CONTRACTOR.—The term
 6 "foreign labor contractor" means any person who
 7 performs foreign labor contracting activity, including
 8 any person who performs foreign labor contracting
 9 activity wholly outside of the United States, except
 10 that the term does not include any entity of the
 11 United States Government.
 - (2) Foreign labor contracting activity.—
 The term "foreign labor contracting activity" means recruiting, soliciting, or related activities with respect to an individual who resides outside of the United States in furtherance of employment in the United States, including when such activity occurs wholly outside of the United States.
 - (3) Person.—The term "person" means any natural person or any corporation, company, firm, partnership, joint stock company or association or other organization or entity (whether organized under law or not), including municipal corporations.
 - (4) Worker.—The term "worker" means an individual who is the subject of foreign labor con-

- 1 tracting activity and does not include an exchange
- 2 visitor (as defined in section 62.2 of title 22, Code
- 3 of Federal Regulations, or any similar successor reg-
- 4 ulation).

5 SEC. 3602. DISCLOSURE.

- 6 (a) REQUIREMENT FOR DISCLOSURE.—Any person
- 7 who engages in foreign labor contracting activity shall as-
- 8 certain and disclose in writing in English and in the pri-
- 9 mary language of the worker at the time of the worker's
- 10 recruitment, the following information:
- 11 (1) The identity and address of the employer
- and the identity and address of the person con-
- ducting the recruiting on behalf of the employer, in-
- 14 cluding any subcontractor or agent involved in such
- recruiting.
- 16 (2) All assurances and terms and conditions of
- employment, from the prospective employer for
- whom the worker is being recruited, including the
- work hours, level of compensation to be paid, the
- 20 place and period of employment, a description of the
- 21 type and nature of employment activities, any
- 22 withholdings or deductions from compensation and
- any penalties for terminating employment.
- 24 (3) A signed copy of the work contract between
- 25 the worker and the employer.

- 1 (4) The type of visa under which the foreign 2 worker is to be employed, the length of time for 3 which the visa will be valid, the terms and conditions 4 under which the visa may be renewed, and a clear 5 statement of any expenses associated with securing 6 or renewing the visa.
 - (5) An itemized list of any costs or expenses to be charged to the worker and any deductions to be taken from wages, including any costs for housing or accommodation, transportation to and from the worksite, meals, health insurance, workers' compensation, costs of benefits provided, medical examinations, healthcare, tools, or safety equipment costs.
 - (6) The existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment.
 - (7) Whether and the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including work-related injuries and death, during the period of employment and, if so, the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance, the name and the telephone number of each person

1	who must be notified of an injury or death, and the
2	time period within which such notice must be given.
3	(8) A statement, in a form specified by the Sec-
4	retary—
5	(A) stating that—
6	(i) no foreign labor contractor, agent,
7	or employee of a foreign labor contractor,
8	may lawfully assess any fee (including visa
9	fees, processing fees, transportation fees,
10	legal expenses, placement fees, and other
11	costs) to a worker for any foreign labor
12	contracting activity; and
13	(ii) the employer may bear such costs
14	or fees for the foreign labor contractor, but
15	that these fees cannot be passed along to
16	the worker;
17	(B) explaining that—
18	(i) no additional significant require-
19	ments or changes may be made to the
20	original contract signed by the worker
21	without at least 24 hours to consider such
22	changes and the specific consent of the
23	worker, obtained voluntarily and without
24	threat of penalty; and

1	(ii) any significant changes made to
2	the original contract that do not comply
3	with clause (i) shall be a violation of this
4	subtitle and be subject to the provisions of
5	section 3610 of this Act; and
6	(C) describing the protections afforded the
7	worker by this section and by section 202 of the
8	William Wilberforce Trafficking Victims Protec-
9	tion Reauthorization Act of 2008 (8 U.S.C.
10	1375b) and any applicable visa program, in-
11	cluding—
12	(i) relevant information about the pro-
13	cedure for filing a complaint provided for
14	in section 3610; and
15	(ii) the telephone number for the na-
16	tional human trafficking resource center
17	hotline number.
18	(9) Any education or training to be provided or
19	required, including—
20	(A) the nature, timing, and cost of such
21	training;
22	(B) the person who will pay such costs;
23	(C) whether the training is a condition of
24	employment, continued employment, or future
25	employment; and

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1	(D) whether the worker will be paid or re-
2	munerated during the training period, including
3	the rate of pay.
4	(b) Relationship to Labor and Employment
5	Laws.—Nothing in the disclosure required by subsection
6	(a) shall constitute a legal conclusion as to the worker's
7	status or rights under the labor and employment laws.
8	(c) Prohibition on False and Misleading In-
9	FORMATION.—No foreign labor contractor or employer
10	who engages in any foreign labor contracting activity shall
11	knowingly provide materially false or misleading informa-
12	tion to any worker concerning any matter required to be
13	disclosed under subsection (a). The disclosure required by
14	this section is a document concerning the proper adminis-
15	tration of a matter within the jurisdiction of a department
16	or agency of the United States for the purposes of section
17	1519 of title 18, United States Code.

18 SEC. 3603. PROHIBITION ON DISCRIMINATION.

19 (a) In General.—It shall be unlawful for an em-20 ployer or a foreign labor contractor to fail or refuse to 21 hire, discharge, intimidate, threaten, restrain, coerce, or 22 blacklist any individual or otherwise discriminate against 23 an individual with respect to compensation, terms, condi-

24 tions, or privileges of employment, because of such individ-

- 1 ual's race, color, creed, sex, national origin, religion, age,
- 2 or disability.
- 3 (b) Determinations of Discrimination.—For the
- 4 purposes of determining the existence of unlawful dis-
- 5 crimination under subsection (a)—
- 6 (1) in the case of a claim of discrimination
- 7 based on race, color, creed, sex, national origin, or
- 8 religion, the same legal standards shall apply as are
- 9 applicable under title VII of the Civil Rights Act of
- 10 1964 (42 U.S.C. 2000e et seq.);
- 11 (2) in the case of a claim of discrimination
- based on unlawful discrimination based on age, the
- same legal standards shall apply as are applicable
- under the Age Discrimination in Employment Act of
- 15 1967 (29 U.S.C. 621 et seq.); and
- 16 (3) in the case of a claim of discrimination
- based on disability, the same legal standards shall
- apply as are applicable under title I of the Ameri-
- cans With Disabilities Act of 1990 (42 U.S.C.
- 20 12111 et seq.).
- 21 SEC. 3604. RECRUITMENT FEES.
- No employer, foreign labor contractor, or agent or
- 23 employee of a foreign labor contractor, shall assess any
- 24 fee (including visa fees, processing fees, transportation

- 1 fees, legal expenses, placement fees, and other costs) to
- 2 a worker for any foreign labor contracting activity.

3 SEC. 3605. REGISTRATION.

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- (a) Requirement To Register.—
- (1) In General.—Subject to paragraph (2), 5 6 prior to engaging in any foreign labor contracting 7 activity, any person who is a foreign labor contractor or who, for any money or other valuable consider-8 9 ation paid or promised to be paid, performs a for-10 eign labor contracting activity on behalf of a foreign 11 labor contractor, shall obtain a certificate of reg-12 istration from the Secretary of Labor pursuant to 13 regulations promulgated by the Secretary under sub-14 section (c).
 - (2) EXCEPTION FOR CERTAIN EMPLOYERS.—An employer, or employee of an employer, who engages in foreign labor contracting activity solely to find employees for that employer's own use, and without the participation of any other foreign labor contractor, shall not be required to register under this section.

22 (b) Notification.—

(1) Annual employer notification.—Each employer shall notify the Secretary, not less frequently than once every year, of the identity of any

- 1 foreign labor contractor involved in any foreign labor 2 contracting activity for, or on behalf of, the em-3 ployer, including at a minimum, the name and ad-4 dress of the foreign labor contractor, a description of 5 the services for which the foreign labor contractor is 6 being used, whether the foreign labor contractor is 7 to receive any economic compensation for the serv-8 ices, and, if so, the identity of the person or entity 9 who is paying for the services.
 - (2) Annual foreign labor contractor no-TIFICATION.—Each foreign labor contractor shall notify the Secretary, not less frequently than once every year, of the identity of any subcontractee, agent, or foreign labor contractor employee involved in any foreign labor contracting activity for, or on behalf of, the foreign labor contractor.
 - (3) Noncompliance notification.—An employer shall notify the Secretary of the identity of a foreign labor contractor whose activities do not comply with this subtitle.
 - (4) AGREEMENT.—Not later than 7 days after receiving a request from the Secretary, an employer shall provide the Secretary with the identity of any foreign labor contractor with which the employer has

25 a contract or other agreement.

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1	(c) REGULATIONS.—Not later than 180 days after
2	the date of the enactment of this Act, the Secretary shall
3	promulgate regulations to establish an efficient electronic
4	process for the timely investigation and approval of an ap-
5	plication for a certificate of registration of foreign labor
6	contractors, including—
7	(1) a declaration, subscribed and sworn to by
8	the applicant, stating the applicant's permanent
9	place of residence, the foreign labor contracting ac-
10	tivities for which the certificate is requested, and
11	such other relevant information as the Secretary
12	may require;
13	(2) a set of fingerprints of the applicant;
14	(3) an expeditious means to update registra
15	tions and renew certificates;
16	(4) providing for the consent of any foreign
17	labor recruiter to the designation by a court of the
18	Secretary as an agent available to accept service or
19	summons in any action against the applicant, if the
20	applicant has left the jurisdiction in which the action
21	is commenced, otherwise has become unavailable to
22	accept service, or is subject to personal jurisdiction
23	in no State;

(5) providing for the consent of any foreign labor recruiter to jurisdiction in the Department or

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1	any Federal or State court in the United States for
2	any action brought by any aggrieved individual or
3	worker;
4	(6) providing for cooperation in any investiga-
5	tion by the Secretary or other appropriate authori-
6	ties;
7	(7) providing for consent to the forfeiture of the
8	bond for failure to cooperate with these provisions;
9	(8) providing for consent to be liable for viola-
10	tions of this subtitle by any agents or subcontractees
11	of any level in relation to the foreign labor con-
12	tracting activity of the agent or subcontractee to the
13	same extent as if the foreign labor contractor had
14	committed the violation; and
15	(9) providing for consultation with other appro-
16	priate Federal agencies to determine whether any
17	reason exists to deny registration to a foreign labor
18	contractor.
19	(d) TERM OF REGISTRATION.—Unless suspended or
20	revoked, a certificate under this section shall be valid for
21	2 years.
22	(e) Application Fee.—
23	(1) REQUIREMENT FOR FEE.—In addition to
24	any other fees authorized by law, the Secretary shall
25	impose a fee, to be deposited in the general fund of

- the Treasury, on a foreign labor contractor that submits an application for a certificate of registration under this section.
- 4 (2) AMOUNT OF FEE.—The amount of the fee 5 required by paragraph (1) shall be set at a level that 6 the Secretary determines sufficient to cover the full 7 costs of carrying out foreign labor contract registra-8 tion activities under this subtitle, including worker 9 education and any additional costs associated with 10 the administration of the fees collected.
- 11 (f) Refusal To Issue; Revocation.—In accord12 ance with regulations promulgated by the Secretary, the
 13 Secretary shall refuse to issue or renew, or shall revoke
 14 and debar from eligibility to obtain a certificate of reg15 istration for a period of not greater than 5 years, after
 16 notice and an opportunity for a hearing, a certificate of
 17 registration under this section if—
 - (1) the applicant for, or holder of, the certification has knowingly made a material misrepresentation in the application for such certificate;
- 21 (2) the applicant for, or holder of, the certifi-22 cation is not the real party in interest in the applica-23 tion or certificate of registration and the real party 24 in interest—

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1	(A) is a person who has been refused
2	issuance or renewal of a certificate;
3	(B) has had a certificate revoked; or
4	(C) does not qualify for a certificate under
5	this section;
6	(3) the applicant for, or holder of, the certifi-
7	cation has been convicted within the preceding 5
8	years of—
9	(A) any felony under State or Federal law
10	or crime involving robbery, bribery, extortion,
11	embezzlement, grand larceny, burglary, arson,
12	violation of narcotics laws, murder, rape, as-
13	sault with intent to kill, assault which inflicts
14	grievous bodily injury, prostitution, peonage, or
15	smuggling or harboring individuals who have
16	entered the United States illegally; or
17	(B) any crime relating to gambling, or to
18	the sale, distribution or possession of alcoholic
19	beverages, in connection with or incident to any
20	labor contracting activities; or
21	(4) the applicant for, or holder of, the certifi-
22	cation has materially failed to comply with this sec-
23	tion.
24	(g) Re-registration of Violators.—The Sec-
25	retary shall establish a procedure by which a foreign labor

- 1 contractor that has had its registration revoked under sub-
- 2 section (f) may seek to re-register under this subsection
- 3 by demonstrating to the Secretary's satisfaction that the
- 4 foreign labor contractor has not violated this subtitle in
- 5 the previous 5 years and that the foreign labor contractor
- 6 has taken sufficient steps to prevent future violations of
- 7 this subtitle.

8 SEC. 3606. BONDING REQUIREMENT.

- 9 (a) In General.—The Secretary shall require a for-
- 10 eign labor contractor to post a bond in an amount suffi-
- 11 cient to ensure the ability of the foreign labor contractor
- 12 to discharge its responsibilities and to ensure protection
- 13 of workers, including wages.
- 14 (b) REGULATIONS.—The Secretary, by regulation,
- 15 shall establish the conditions under which the bond
- 16 amount is determined, paid, and forfeited.
- 17 (c) Relationship to Other Remedies.—The bond
- 18 requirements and forfeiture of the bond under this section
- 19 shall be in addition to other remedies under 3610 or any
- 20 other law.

21 SEC. 3607. MAINTENANCE OF LISTS.

- 22 (a) IN GENERAL.—The Secretary shall maintain—
- 23 (1) a list of all foreign labor contractors reg-
- 24 istered under this subsection, including—

1	(A) the countries from which the contrac-
2	tors recruit;
3	(B) the employers for whom the contrac-
4	tors recruit;
5	(C) the visa categories and occupations for
6	which the contractors recruit; and
7	(D) the States where recruited workers are
8	employed; and
9	(2) a list of all foreign labor contractors whose
10	certificate of registration the Secretary has revoked.
11	(b) UPDATES; AVAILABILITY.—The Secretary shall—
12	(1) update the lists required by subsection (a)
13	on an ongoing basis, not less frequently than every
14	6 months; and
15	(2) make such lists publicly available, including
16	through continuous publication on Internet websites
17	and in written form at and on the websites of
18	United States embassies in the official language of
19	that country.
20	(c) Inter-agency Availability.—The Secretary
21	shall share the information described in subsection (a)
22	with the Secretary of State.

1	SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-
2	TIONALITY ACT.
3	Section 214 (8 U.S.C. 1184) is amended by adding
4	at the end the following:
5	"(s) A visa shall not be issued under the subpara-
6	graph (A)(iii), (B)(i) (but only for domestic servants de-
7	scribed in clause (i) or (ii) of section 274a.12(c)(17) of
8	title 8, Code of Federal Regulations (as in effect on De-
9	cember 4, 2007)), $(G)(v)$, (H) , (J) , (L) , (Q) , (R) , or (W)
10	of section 101(a)(15) until the consular officer—
11	"(1) has provided to and reviewed with the ap-
12	plicant, in the applicant's language (or a language
13	the applicant understands), a copy of the informa-
14	tion and resources pamphlet required by section 202
15	of the William Wilberforce Trafficking Victims Pro-
16	tection Reauthorization Act of 2008 (8 U.S.C.
17	1375b); and
18	"(2) has reviewed and made a part of the visa
19	file the foreign labor recruiter disclosures required
20	by section 3602 of the Border Security, Economic
21	Opportunity, and Immigration Modernization Act,
22	including whether the foreign labor recruiter is reg-
23	istered pursuant to that section.".
24	SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.
25	(a) IN GENERAL.—The Secretary of State shall en-
26	sure that each United States diplomatic mission has a per-

- 1 son who shall be responsible for receiving information
- 2 from any worker who has been subject to violations of this
- 3 subtitle.
- 4 (b) Provision of Information.—The responsible
- 5 person referred to in subsection (a) shall ensure that the
- 6 information received is provided to the Department of Jus-
- 7 tice, the Department of Labor, or any other relevant Fed-
- 8 eral agency.
- 9 (c) MECHANISMS.—The Attorney General and the
- 10 Secretary shall ensure that there is a mechanism for any
- 11 actions that need to be taken in response to information
- 12 received under subsection (a).
- 13 (d) Assistance From Foreign Government.—
- 14 The person designated for receiving information pursuant
- 15 to subsection (a) is strongly encouraged to coordinate with
- 16 governments and civil society organizations in the coun-
- 17 tries of origin to ensure the worker receives additional sup-
- 18 port.
- 19 (e) Maintenance and Availability of Informa-
- 20 Tion.—The Secretary of State shall ensure that con-
- 21 sulates maintain information regarding the identities of
- 22 foreign labor contractors and the employers to whom the
- 23 foreign labor contractors supply workers. The Secretary
- 24 of State shall make such information publicly available in
- 25 written form and online, including on the websites of

1	United States embassies in the official language of that
2	country.
3	(f) Annual Public Disclose.—The Secretary of
4	State shall make publicly available online, on an annual
5	basis, data disclosing the gender, country of origin and
6	state, if available, date of birth, wage, level of training,
7	and occupation category, disaggregated by job and by visa
8	category and subcategory.
9	SEC. 3610. ENFORCEMENT PROVISIONS.
10	(a) Complaints and Investigations.—The Sec-
11	retary—
12	(1) shall establish a process for the receipt, in-
13	vestigation, and disposition of complaints filed by
14	any person, including complaints respecting a for-
15	eign labor contractor's compliance with this subtitle;
16	and
17	(2) either pursuant to the process required by
18	paragraph (1) or otherwise, may investigate employ-
19	ers or foreign labor contractors, including actions oc-
20	curring in a foreign country, as necessary to deter-
21	mine compliance with this subtitle.
22	(b) Enforcement.—
23	(1) In general.—A worker who believes that
24	he or she has suffered a violation of this subtitle
25	may seek relief from an employer by—

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1	(A) filing a complaint with the Secretary
2	within 3 years after the date on which the viola-
3	tion occurred or date on which the employee be-
4	came aware of the violation; or
5	(B) if the Secretary has not issued a final
5	decision within 120 days of the filing of the
7	complaint and there is no showing that such
3	delay is due to the bad faith of the claimant,

amount in controversy.

(2) Procedure.—

(A) IN GENERAL.—Unless otherwise provided herein, a complaint under paragraph (1)(A) shall be governed under the rules and procedures set forth in paragraphs (1) and (2)(A) of section 42121(b) of title 49, United States Code.

bringing an action at law or equity for de novo

review in the appropriate district court of the

United States, which shall have jurisdiction

over such an action without regard to the

(B) Exception.—Notification of a complaint under paragraph (1)(A) shall be made to each person or entity named in the complaint as a defendant and to the employer.

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1	(C) Statute of Limitations.—An action
2	filed in a district court of the United States
3	under paragraph (1)(B) shall be commenced
4	not later than 180 days after the last day of the
5	120-day period referred to in that paragraph.
6	(D) Jury Trial.—A party to an action
7	brought under paragraph (1)(B) shall be enti-
8	tled to trial by jury.
9	(c) Administrative Enforcement.—
10	(1) IN GENERAL.—If the Secretary finds, after
11	notice and an opportunity for a hearing, any foreign
12	labor contractor or employer failed to comply with
13	any of the requirements of this subtitle, the Sec-
14	retary may impose the following against such con-
15	tractor or employer—
16	(A) a fine in an amount not more than
17	\$10,000 per violation; and
18	(B) upon the occasion of a third violation
19	or a failure to comply with representations, a
20	fine of not more than \$25,000 per violation.
21	(d) AUTHORITY TO ENSURE COMPLIANCE.—The
22	Secretary is authorized to take other such actions, includ-
23	ing issuing subpoenas and seeking appropriate injunctive
24	relief and recovery of damages, as may be necessary to

1	assure compliance with the terms and conditions of this
2	subtitle.
3	(e) Bonding.—Pursuant to the bonding requirement
4	in section 3606, bond liquidation and forfeitures shall be
5	in addition to other remedies under this section or any
6	other law.
7	(f) CIVIL ACTION.—
8	(1) In general.—The Secretary or any person
9	aggrieved by a violation of this subtitle may bring a
10	civil action against any foreign labor contractor that
11	does not meet the requirements under subsection
12	(g)(2) in any court of competent jurisdiction—
13	(A) to seek remedial action, including in-
14	junctive relief;
15	(B) to recover damages on behalf of any
16	worker harmed by a violation of this subsection;
17	and
18	(C) to ensure compliance with require-
19	ments of this section.
20	(2) Actions by the secretary of home-
21	LAND SECURITY.—
22	(A) Sums recovered.—Any sums recov-
23	ered by the Secretary on behalf of a worker
24	under paragraph (1) or through liquidation of
25	the bond held pursuant to section 3606 shall be

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held in a special deposit account and shall be paid, on order of the Secretary, directly to each worker affected. Any such sums not paid to a worker because of inability to do so within a period of 5 years shall be credited as an offsetting collection to the appropriations account of the Secretary for expenses for the administration of this section and shall remain available to the Secretary until expended or may be used for enforcement of the laws within the jurisdiction of the wage and hour division or may be transferred to the Secretary of Health and Human Services for the purpose of providing support to programs that provide assistance to victims of trafficking in persons or other exploited persons. The Secretary shall work with any attorney or organization representing workers to locate workers owed sums under this section.

(B) Representation.—Except as provided in section 518(a) of title 28, United States Code, the Attorney General may appear for and represent the Secretary in any civil litigation brought under this paragraph. All such litigation shall be subject to the direction and control of the Attorney General.

1	(3) Actions by individuals.—
2	(A) AWARD.—If the court finds in a civil
3	action filed by an individual under this section
4	that the defendant has violated any provision of
5	this subtitle (or any regulation issued pursuant
6	to this subtitle), the court may award—
7	(i) damages, up to and including an
8	amount equal to the amount of actual
9	damages, and statutory damages of up to
10	\$1,000 per plaintiff per violation, or other
11	equitable relief, except that with respect to
12	statutory damages—
13	(I) multiple infractions of a sin-
14	gle provision of this subtitle (or of a
15	regulation under this subtitle) shall
16	constitute only 1 violation for pur-
17	poses of section 3602(a) to determine
18	the amount of statutory damages due
19	a plaintiff; and
20	(II) if such complaint is certified
21	as a class action the court may
22	award—
23	(aa) damages up to an
24	amount equal to the amount of
25	actual damages: and

1	(bb) statutory damages of
2	not more than the lesser of up to
3	\$1,000 per class member per vio-
4	lation, or up to \$500,000; and
5	other equitable relief;
6	(ii) reasonable attorneys' fees and
7	costs; and
8	(iii) such other and further relief, in-
9	cluding declaratory and injunctive relief, as
10	necessary to effectuate the purposes of this
11	subtitle.
12	(B) Criteria.—In determining the
13	amount of statutory damages to be awarded
14	under subparagraph (A), the court is author-
15	ized to consider whether an attempt was made
16	to resolve the issues in dispute before the resort
17	to litigation.
18	(C) Bond.—To satisfy the damages, fees,
19	and costs found owing under this clause, the
20	Secretary shall release as much of the bond
21	held pursuant to section 3606 as necessary.
22	(D) Appeal.—Any civil action brought
23	under this section shall be subject to appeal as
24	provided in chapter 83 of title 28, United
25	States Code (28 U.S.C. 1291 et seq.).

1 (E) Access to legal services cor2 PORATION.—Notwithstanding any other provi3 sion of law, the Legal Services Corporation and
4 recipients of its funding may provide legal as5 sistance on behalf of any alien with respect to
6 any provision of this subtitle.

(g) AGENCY LIABILITY.—

- (1) In General.—Beginning 180 days after the Secretary has promulgated regulations pursuant to section 3605(c), an employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under section 3605.
- (2) SAFE HARBOR.—An employer shall not have any liability under this section if the employer hires workers referred by a foreign labor contractor that has a valid registration with the Department pursuant to section 3604.
- (3) Liability for agents.—Foreign labor contractors shall be subject to the provisions of this section for violations committed by the foreign labor contractor's agents or subcontractees of any level in relation to their foreign labor contracting activity to the same extent as if the foreign labor contractor had committed the violation.

(h) Retaliation.—

- (1) In General.—No person shall intimidate, threaten, restrain, coerce, discharge, or in any other manner discriminate or retaliate against any worker or their family members (including a former employee or an applicant for employment) because such worker disclosed information to any person that the worker reasonably believes evidences a violation of this section (or any rule or regulation pertaining to this section), including seeking legal assistance of counsel or cooperating with an investigation or other proceeding concerning compliance with this section (or any rule or regulation pertaining to this section).
- (2) Enforcement.—An individual who is subject to any conduct described in paragraph (1) may, in a civil action, recover appropriate relief, including reasonable attorneys' fees and costs, with respect to that violation. Any civil action under this subparagraph shall be stayed during the pendency of any criminal action arising out of the violation.
- 21 (i) WAIVER OF RIGHTS.—Agreements by employees 22 purporting to waive or to modify their rights under this 23 subtitle shall be void as contrary to public policy.
- 24 (j) Presence During Pendency of Actions.—

- 1 (1) IN GENERAL.—If other immigration relief is
 2 not available, the Attorney General and the Sec3 retary shall grant advance parole to permit a non4 immigrant to remain legally in the United States for
 5 time sufficient to fully and effectively participate in
 6 all legal proceedings related to any action taken pur7 suant to this section.
- 8 (2) Regulations.—Not later than 180 days
 9 after the date of the enactment of this Act, the Sec10 retary shall promulgate regulations to carry out
 11 paragraph (1).
- 12 SEC. 3611. DETECTING AND PREVENTING CHILD TRAF-
- FICKING.
- 14 The Secretary shall mandate the live training of all
- 15 U.S. Customs and Border Protection personnel who are
- 16 likely to come into contact with unaccompanied alien chil-
- 17 dren. Such training shall incorporate the services of child
- 18 welfare professionals with expertise in culturally com-
- 19 petent, trauma-centered, and developmentally appropriate
- 20 interviewing skills to assist U.S. Customs and Border Pro-
- 21 tection in the screening of children attempting to enter
- 22 the United States.
- 23 SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.
- 24 (a) Short Title.—This section may be cited as the
- 25 "Child Trafficking Victims Protection Act".

1	(b) Defined Term.—In this section, the term "un-
2	accompanied alien children" has the meaning given such
3	term in section 462 of the Homeland Security Act of 2002
4	(6 U.S.C. 279).
5	(c) Care and Transportation.—Notwithstanding
6	any other provision of law, the Secretary shall ensure that
7	all unaccompanied alien children who will undergo any im-
8	migration proceedings before the Department or the Exec-
9	utive Office for Immigration Review are duly transported
10	and placed in the care and legal and physical custody of
11	the Office of Refugee Resettlement not later than 72
12	hours after their apprehension absent exceptional cir-
13	cumstances, including a natural disaster or comparable
14	emergency beyond the control of the Secretary or the Of-
15	fice of Refugee Resettlement. The Secretary, to the extent
16	practicable, shall ensure that female officers are continu-
17	ously present during the transfer and transport of female
18	detainees who are in the custody of the Department.
19	(d) Qualified Resources.—
20	(1) In General.—The Secretary shall provide
21	adequately trained and qualified staff and resources,
22	including the accommodation of child welfare offi-
23	cials, in accordance with subsection (e), at U.S. Cus-
24	toms and Border Protection ports of entry and sta-
25	tions.

1	(2) CHILD WELFARE PROFESSIONALS.—The
2	Secretary of Health and Human Services, in con-
3	sultation with the Secretary, shall hire, on a full- or
4	part-time basis, child welfare professionals who will
5	provide assistance, either in person or by other ap-
6	propriate methods of communication, in not fewer
7	than 7 of the U.S. Customs and Border Protection
8	offices or stations with the largest number of unac-
9	companied alien child apprehensions in the previous
10	fiscal year.
11	(e) CHILD WELFARE PROFESSIONALS.—
12	(1) In general.—The Secretary, in consulta-

- (1) In General.—The Secretary, in consultation with the Secretary of Health and Human Services, shall ensure that qualified child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills are available at each major port of entry described in subsection (d).
- (2) Duties.—Child welfare professionals described in paragraph (1) shall—
 - (A) develop guidelines for treatment of unaccompanied alien children in the custody of the Department;
- 24 (B) conduct screening of all unaccom-25 panied alien children in accordance with section

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1	235(a)(4) of the William Wilberforce Traf-
2	ficking Victims Protection Reauthorization Act
3	of 2008 (8 U.S.C. 1232(a)(4));
4	(C) notify the Department and the Office
5	of Refugee Resettlement of children that poten-
6	tially meet the notification and transfer require-
7	ments set forth in subsections (a) and (b) of
8	section 235 of such Act (8 U.S.C. 1232);
9	(D) interview adult relatives accompanying
10	unaccompanied alien children;
11	(E) provide an initial family relationship
12	and trafficking assessment and recommenda-
13	tions regarding unaccompanied alien children's
14	initial placements to the Office of Refugee Re-
15	settlement, which shall be conducted in accord-
16	ance with the time frame set forth in sub-
17	sections $(a)(4)$ and $(b)(3)$ of section 235 of
18	such Act (8 U.S.C. 1232); and
19	(F) ensure that each unaccompanied alien
20	child in the custody of U.S. Customs and Bor-
21	der Protection—
22	(i) receives emergency medical care
23	when necessary;
24	(ii) receives emergency medical and
25	mental health care that complies with the

1	standards adopted pursuant to section 8(c)
2	of the Prison Rape Elimination Act of
3	2003 (42 U.S.C. 15607(c)) whenever nec-
4	essary, including in cases in which a child
5	is at risk to harm himself, herself, or oth-
6	ers;
7	(iii) is provided with climate appro-
8	priate clothing, shoes, basic personal hy-
9	giene and sanitary products, a pillow, lin-
10	ens, and sufficient blankets to rest at a
11	comfortable temperature;
12	(iv) receives adequate nutrition;
13	(v) enjoys a safe and sanitary living
14	environment;
15	(vi) has access to daily recreational
16	programs and activities if held for a period
17	longer than 24 hours;
18	(vii) has access to legal services and
19	consular officials; and
20	(viii) is permitted to make supervised
21	phone calls to family members.
22	(3) Final determinations.—The Office of
23	Refugee Resettlement in accordance with applicable
24	policies and procedures for sponsors, shall submit
25	final determinations on family relationships to the

1	Secretary, who shall consider such adult relatives for
2	community-based support alternatives to detention.
3	(4) Report.—Not later than 18 months after
4	the date of the enactment of this Act, and annually
5	thereafter, the Secretary shall submit a report to
6	Congress that—
7	(A) describes the screening procedures
8	used by the child welfare professionals to screen
9	unaccompanied alien children;
10	(B) assesses the effectiveness of such
11	screenings; and
12	(C) includes data on all unaccompanied
13	alien children who were screened by child wel-
14	fare professionals;
15	(f) Immediate Notification.—The Secretary shall
16	notify the Office of Refugee Resettlement of an unaccom-
17	panied alien child in the custody of the Department as
18	soon as practicable, but generally not later than 48 hours
19	after the Department encounters the child, to effectively
20	and efficiently coordinate the child's transfer to and place-
21	ment with the Office of Refugee Resettlement.
22	(g) Notice of Rights and Right to Access to
23	Counsel.—

1	(1) In General.—The Secretary shall ensure
2	that all unaccompanied alien children, upon appre-
3	hension, are provided—
4	(A) an interview and screening with a child
5	welfare professional described in subsection
6	(e)(1); and
7	(B) an orientation and oral and written
8	notice of their rights under the Immigration
9	and Nationality Act, including—
10	(i) their right to relief from removal;
11	(ii) their right to confer with counsel
12	(as guaranteed under section 292 of such
13	Act (8 U.S.C. 1362)), family, or friends
14	while in the temporary custody of the De-
15	partment; and
16	(iii) relevant complaint mechanisms to
17	report any abuse or misconduct they may
18	have experienced.
19	(2) Languages.—The Secretary shall ensure
20	that—
21	(A) the video orientation and written no-
22	tice of rights described in paragraph (1) is
23	available in English and in the 5 most common
24	native languages spoken by the unaccompanied

1	children held in custody at that location during
2	the preceding fiscal year; and
3	(B) the oral notice of rights is available in
4	English and in the most common native lan-
5	guage spoken by the unaccompanied children
6	held in custody at that location during the pre-
7	ceding fiscal year.
8	(h) Confidentiality.—The Secretary of Health
9	and Human Services shall maintain the privacy and con-
10	fidentiality of all information gathered in the course of
11	providing care, custody, placement, and follow-up services
12	to unaccompanied alien children, consistent with the best
13	interest of the unaccompanied alien child, by not dis-
14	closing such information to other government agencies or
15	nonparental third parties unless such disclosure is—
16	(1) recorded in writing and placed in the child's
17	file;
18	(2) in the child's best interest; and
19	(3)(A) authorized by the child or by an ap-
20	proved sponsor in accordance with section 235 of the
21	William Wilberforce Trafficking Victims Protection
22	Reauthorization Act of 2008 (8 U.S.C. 1232) and
23	the Health Insurance Portability and Accountability
24	Act (Public Law 104–191); or

1	(B) provided to a duly recognized law enforce-
2	ment entity to prevent imminent and serious harm
3	to another individual.
4	(i) Other Policies and Procedures.—The Sec-
5	retary shall adopt fundamental child protection policies
6	and procedures—
7	(1) for reliable age determinations of children,
8	developed in consultation with medical and child wel-
9	fare experts, which exclude the use of fallible foren-
10	sic testing of children's bone and teeth;
11	(2) to utilize all legal authorities to defer the
12	child's removal if the child faces a risk of life-threat-
13	ening harm upon return including due to the child's
14	mental health or medical condition; and
15	(3) to ensure, in accordance with the Juvenile
16	Justice and Delinquency Prevention Act of 1974 (42
17	U.S.C. 5601 et seq.), that unaccompanied alien chil-
18	dren, while in detention, are—
19	(A) physically separated from any adult
20	who is not an immediate family member; and
21	(B) separated from—
22	(i) immigration detainees and inmates
23	with criminal convictions;
24	(ii) pretrial inmates facing criminal
25	prosecution; and

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1	(iii) inmates exhibiting violent behav-
2	ior.
3	(j) Repatriation and Reintegration Pro-
4	GRAM.—
5	(1) In General.—The Administrator of the
6	United States Agency for International Develop-
7	ment, in conjunction with the Secretary, the Sec-
8	retary of Health and Human Services, the Attorney
9	General, international organizations, and nongovern-
10	mental organizations in the United States with ex-
11	pertise in repatriation and reintegration, shall create
12	a multi-year program to develop and implement best
13	practices and sustainable programs in the United
14	States and within the country of return to ensure
15	the safe and sustainable repatriation and reintegra-
16	tion of unaccompanied alien children into their coun-
17	try of nationality or of last habitual residence, in-
18	cluding placement with their families, legal guard-
19	ians, or other sponsoring agencies.
20	(2) Report on Repatriation and Re-
21	INTEGRATION OF UNACCOMPANIED ALIEN CHIL-
22	DREN.—Not later than 18 months after the date of

the enactment of this Act, and annually thereafter,

the Administrator of the Agency for International

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1 Committee on the Judiciary of the Senate and the 2 Committee on the Judiciary of the House of Rep-3 resentatives on efforts to improve repatriation and 4 reintegration programs for unaccompanied alien chil-5 dren.

(k) Transfer of Funds.—

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- (1) AUTHORIZATION.—The Secretary, in accordance with a written agreement between the Secretary and the Secretary of Health and Human Services, shall transfer such amounts as may be necessary to carry out the duties described in subsection (f)(2) from amounts appropriated for U.S. Customs and Border Protection to the Department of Health and Human Services.
- (2) Report.—Not later than 15 days before any proposed transfer under paragraph (1), the Secretary of Health and Human Services, in consultation with the Secretary, shall submit a detailed expenditure plan that describes the actions proposed to be taken with amounts transferred under such paragraph to—
- 22 (A) the Committee on Appropriations of 23 the Senate; and
- 24 (B) the Committee on Appropriations of 25 the House of Representatives.

SEC. 3613. RULE OF CONSTRUCTION. 2 Nothing in this subtitle shall be construed to preempt 3 or alter any other rights or remedies, including any causes of action, available under any other Federal or State law. 4 5 SEC. 3614. REGULATIONS. 6 The Secretary shall, in consultation with the Sec-7 retary of Labor, prescribe regulations to implement this subtitle and to develop policies and procedures to enforce the provisions of this subtitle. 9 Subtitle G—Interior Enforcement 10 11 SEC. 3701. CRIMINAL STREET GANGS. 12 (a) Inadmissibility.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by inserting after subparagraph 13 (I) the following: 14 15 "(J) ALIENS IN CRIMINAL STREET 16 GANGS.— "(i) IN GENERAL.—Any alien is inad-17 18 missible— 19 "(I) who has been convicted of 20 an offense for which an element was 21 active participation in a criminal 22 street gang (as defined in section 23 521(a) of title 18, United States

Code) and the alien—

"(aa) had knowledge that

the gang's members engaged in

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1	or have engaged in a continuing
2	series of offenses described in
3	section 521(c) of title 18, United
4	States Code; and
5	"(bb) acted with the inten-
6	tion to promote or further the fe-
7	lonious activities of the criminal
8	street gang or maintain or in-
9	crease his or her position in the
10	gang; or
11	"(II) subject to clause (ii), who is
12	18 years of age or older, who is phys-
13	ically present outside the United
14	States, whom the Secretary deter-
15	mines by clear and convincing evi-
16	dence, based upon law enforcement in-
17	formation deemed credible by the Sec-
18	retary, has, since the age of 18, know-
19	ingly and willingly participated in a
20	criminal street gang with knowledge
21	that such participation promoted or
22	furthered the illegal activity of the
23	gang.
24	"(ii) Waiver.—The Secretary may
25	waive clause $(i)(\Pi)$ if the alien has re-

1	nounced all association with the criminal
2	street gang, is otherwise admissible, and is
3	not a threat to the security of the United
4	States.".
5	(b) Grounds for Deportation.—Section
6	237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at
7	the end the following:
8	"(G) ALIENS ASSOCIATED WITH CRIMINAL
9	STREET GANGS.—Any alien is removable who
10	has been convicted of an offense for which an
11	element was active participation in a criminal
12	street gang (as defined in section 521(a) of title
13	18, United States Code), and the alien—
14	"(i) had knowledge that the gang's
15	members engaged in or have engaged in a
16	continuing series of offenses described in
17	section 521(c) of title 18, United States
18	Code; and
19	"(ii) acted with the intention to pro-
20	mote or further the felonious activities the
21	criminal street gang or increase his or her
22	position in such gang.".
23	(c) Ground of Ineligibility for Registered
24	Provisional Immigrant Status.—

1	(1) In general.—An alien who is 18 years of
2	age or older is ineligible for registered provisional
3	immigrant status if the Secretary determines that
4	the alien—
5	(A) has been convicted of an offense for
6	which an element was active participation in a
7	criminal street gang (as defined in section
8	521(a) of title 18, United States Code, and the
9	alien—
10	(i) had knowledge that the gang's
11	members engaged in or have engaged in a
12	continuing series of offenses described in
13	section 521(c) of title 18, United States
14	Code; and
15	(ii) acted with the intention to pro-
16	mote or further the felonious activities of
17	the criminal street gang or maintain or in-
18	crease his or her position in such gang; or
19	(B) subject to paragraph (2), any alien
20	who is 18 years of age or older whom the Sec-
21	retary determines by clear and convincing evi-
22	dence, based upon law enforcement information
23	deemed credible by the Secretary, has, since the
24	age of 18, knowingly and willingly participated
25	in a such gang with knowledge that such par-

1	ticipation promoted or furthered the illegal ac-
2	tivity of such gang.
3	(2) Waiver.—The Secretary may waive the ap-
4	plication of paragraph (1)(B) if the alien has re-
5	nounced all association with the criminal street
6	gang, is otherwise admissible, and is not a threat to
7	the security of the United States.
8	SEC. 3702. BANNING HABITUAL DRUNK DRIVERS FROM THE
9	UNITED STATES.
10	(a) Grounds for Inadmissibility.—Section
11	212(a)(2) (8 U.S.C. 1182(a)(2)), as amended by section
12	3701(a), is further amended—
13	(1) by redesignating subparagraph (F) as sub-
14	paragraph (L); and
15	(2) by inserting after subparagraph (E) the fol-
16	lowing:
17	"(F) Habitual drunk drivers.—An
18	alien convicted of 3 or more offenses for driving
19	under the influence or driving while intoxicated
20	on separate dates is inadmissible.".
21	(b) Grounds for Deportation.—Section
22	237(a)(2) (8 U.S.C. 1227(a)(2)), as amended by section
23	3701(b), is further amended by adding at the end the fol-
24	lowing:

1	"(H) Habitual drunk drivers.—An
2	alien convicted of 3 or more offenses for driving
3	under the influence or driving while intoxicated,
4	at least 1 of which occurred after the date of
5	the enactment of the Border Security, Eco-
6	nomic Opportunity, and Immigration Mod-
7	ernization Act, is deportable.".
8	(e) In General.—
9	(1) AGGRAVATED FELONY.—Section
10	101(a)(43)(F) (8 U.S.C. $1101(a)(43)(F)$) is amend-
11	ed by striking "for which the term of imprisonment"
12	and inserting ", including a third drunk driving con-
13	viction, for which the term of imprisonment is".
14	(2) Effective date and application.—
15	(A) Effective date.—The amendment
16	made by paragraph (1) shall take effect on the
17	date of the enactment of this Act.
18	(B) Application.—
19	(i) In general.—Except as provided
20	in subparagraph (ii), the amendment made
21	by paragraph (1) shall apply to a convic-
22	tion for drunk driving that occurred be-
23	fore, on, or after such date of enactment.
24	(ii) Two or more prior convic-
25	TIONS —An alien who received 2 or more

1 convictions for drunk driving before the 2 date of the enactment of this Act may not 3 be subject to removal for the commission 4 of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Immigration 6 and Nationality Act (8 U.S.C. 7 1227(a)(2)(A)(iii)) on the basis of such 8 convictions until the date on which the 9 alien is convicted of a drunk driving of-10 fense after such date of enactment.

11 SEC. 3703. SEXUAL ABUSE OF A MINOR.

- 12 Section 101(a)(43)(A) (8 U.S.C. 1101(a)(43)(A)) is
- 13 amended by striking "murder, rape, or sexual abuse of
- 14 a minor;" and inserting "murder, rape, or sexual abuse
- 15 of a minor, whether or not the minority of the victim is
- 16 established by evidence contained in the record of convic-
- 17 tion or by credible evidence extrinsic to the record of con-
- 18 viction;".

19 SEC. 3704. ILLEGAL ENTRY.

- 20 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is
- 21 amended to read as follows:
- 22 "SEC. 275. ILLEGAL ENTRY.
- 23 "(a) IN GENERAL.—

1	"(1) Criminal offenses.—An alien shall be
2	subject to the penalties set forth in paragraph (2) if
3	the alien—
4	"(A) enters or crosses the border into the
5	United States at any time or place other than
6	as designated by the Secretary of Homeland Se-
7	curity;
8	"(B) eludes examination or inspection by
9	an immigration officer, or a customs or agri-
10	culture inspection at a port of entry; or
11	"(C) enters or crosses the border to the
12	United States by means of a knowingly false or
13	misleading representation or the concealment of
14	a material fact.
15	"(2) Criminal penalties.—Any alien who
16	violates any provision under paragraph (1)—
17	"(A) shall, for the first violation, be fined
18	under title 18, United States Code, imprisoned
19	not more than 12 months, or both;
20	"(B) shall, for a second or subsequent vio-
21	lation, or following an order of voluntary depar-
22	ture, be fined under such title, imprisoned not
23	more than 3 years, or both;
24	"(C) if the violation occurred after the
25	alien had been convicted of 3 or more mis-

1	demeanors with the convictions occurring on
2	different dates or of a felony for which the alien
3	served a term of imprisonment of 15 days or
4	more, shall be fined under such title, impris-
5	oned not more than 10 years, or both; and
6	"(D) if the violation occurred after the
7	alien had been convicted of a felony for which
8	the alien was sentenced to a term of imprison-
9	ment of not less than 30 months, shall be fined
10	under such title, imprisoned not more than 15
11	years, or both.
12	"(3) Prior convictions.—The prior convic-
13	tions described in subparagraphs (C) and (D) of
14	paragraph (2) are elements of the offenses described
15	in that paragraph and the penalties in such subpara-
16	graphs shall apply only in cases in which the convic-
17	tion or convictions that form the basis for the addi-
18	tional penalty are—
19	"(A) alleged in the indictment or informa-
20	tion; and
21	"(B) proven beyond a reasonable doubt at
22	trial or admitted by the defendant under oath
23	as part of a plea agreement.
24	"(b) Improper Time or Place; Civil Pen-
25	ALTIES.—Any alien older than 18 years of age who is ap-

- 1 prehended while knowingly entering, attempting to enter,
- 2 or crossing or attempting to cross the border to the United
- 3 States at a time or place other than as designated by im-
- 4 migration officers shall be subject to a civil penalty, in
- 5 addition to any criminal or other civil penalties that may
- 6 be imposed under any other provision of law, in an amount
- 7 equal to—
- 8 "(1) not less than \$250 or more than \$5,000
- 9 for each such entry, crossing, attempted entry, or at-
- tempted crossing; or
- 11 "(2) twice the amount specified in paragraph
- 12 (1) if the alien had previously been subject to a civil
- penalty under this subsection.
- 14 "(c) Fraudulent Marriage.—An individual who
- 15 knowingly enters into a marriage for the purpose of evad-
- 16 ing any provision of the immigration laws shall be impris-
- 17 oned for not more than 5 years, fined not more than
- 18 \$250,000, or both.
- 19 "(d) Commercial Enterprises.—Any individual
- 20 who knowingly establishes a commercial enterprise for the
- 21 purpose of evading any provision of the immigration laws
- 22 shall be imprisoned for not more than 5 years, fined in
- 23 accordance with title 18, United States Code, or both.".

- 1 (b) CLERICAL AMENDMENT.—The table of contents
- 2 is amended by striking the item relating to section 275
- 3 and inserting the following:

"Sec. 275. Illegal entry.".

- 4 (c) Effective Date.—The amendments made by
- 5 this section shall take effect 1 year after the date of the
- 6 enactment of this Act.
- 7 SEC. 3705. REENTRY OF REMOVED ALIEN.
- 8 Section 276 (8 U.S.C. 1326) is amended to read as
- 9 follows:
- 10 "SEC. 276. REENTRY OF REMOVED ALIEN.
- 11 "(a) REENTRY AFTER REMOVAL.—Any alien who
- 12 has been denied admission, excluded, deported, or re-
- 13 moved, or who has departed the United States while an
- 14 order of exclusion, deportation, or removal is outstanding,
- 15 and subsequently enters, attempts to enter, crosses the
- 16 border to, attempts to cross the border to, or is at any
- 17 time found in the United States, shall be fined under title
- 18 18, United States Code, and imprisoned not more than
- 19 2 years.
- 20 "(b) Reentry of Criminal Offenders.—Not-
- 21 withstanding the penalty provided in subsection (a), if an
- 22 alien described in that subsection—
- "(1) was convicted for 3 or more misdemeanors,
- 24 with the convictions occurring on different dates, be-
- fore such removal or departure, the alien shall be

- fined under title 18, United States Code, and imprisoned not more than 10 years, or both;
 - "(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, and imprisoned not more than 15 years, or both;
 - "(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, and imprisoned not more than 20 years, or both;
 - "(4) was convicted for 3 felonies, with the convictions occurring on different dates before such removal or departure, the alien shall be fined under such title, and imprisoned not more than 20 years, or both; or
 - "(5) was convicted, before such removal or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, and imprisoned not more than 20 years, or both.
- 24 "(c) REENTRY AFTER REPEATED REMOVAL.—Any 25 alien who has been denied admission, excluded, deported,

- 1 or removed 3 or more times and thereafter enters, at-
- 2 tempts to enter, crosses the border to, attempts to cross
- 3 the border to, or is at any time found in the United States,
- 4 shall be fined under title 18, United States Code, and im-
- 5 prisoned not more than 10 years, or both.
- 6 "(d) Proof of Prior Convictions.—The prior
- 7 convictions described in subsection (b) are elements of the
- 8 offenses described in that subsection, and the penalties in
- 9 such subsection shall apply only in cases in which the con-
- 10 viction or convictions that form the basis for the additional
- 11 penalty are—
- "(1) alleged in the indictment or information;
- 13 and
- "(2) proven beyond a reasonable doubt at trial
- or admitted by the defendant under oath as part of
- a plea agreement.
- 17 "(e) Affirmative Defenses.—It shall be an af-
- 18 firmative defense to a violation of this section that—
- 19 "(1) prior to the alleged violation, the alien had
- sought and received the express consent of the Sec-
- 21 retary of Homeland Security to reapply for admis-
- sion into the United States; or
- 23 "(2) at the time of the prior exclusion, deporta-
- 24 tion, removal, or denial of admission alleged in the
- violation, the alien had not yet reached 18 years of

- age and had not been convicted of a crime or adju-
- 2 dicated a delinquent minor by a court of the United
- 3 States, or a court of a state or territory, for conduct
- 4 that would constitute a felony if committed by an
- 5 adult.
- 6 "(f) Limitation on Collateral Attack on Un-
- 7 Derlying Deportation Order.—In a criminal pro-
- 8 ceeding under this section, an alien may not challenge the
- 9 validity of the deportation order described in subsection
- 10 (a) or subsection (c) unless the alien demonstrates that—
- 11 "(1) the alien exhausted any administrative
- remedies that may have been available to seek relief
- against the order;
- 14 "(2) the deportation proceedings at which the
- order was issued improperly deprived the alien of the
- opportunity for judicial review; and
- 17 "(3) the entry of the order was fundamentally
- unfair.
- 19 "(g) Reentry of Alien Removed Prior to Com-
- 20 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
- 21 moved pursuant to section 241(a)(4) who enters, attempts
- 22 to enter, crosses the border to, attempts to cross the bor-
- 23 der to, or is at any time found in, the United States shall
- 24 be incarcerated for the remainder of the sentence of im-
- 25 prisonment which was pending at the time of deportation

- 1 without any reduction for parole or supervised release un-
- 2 less the alien affirmatively demonstrates that the Sec-
- 3 retary of Homeland Security has expressly consented to
- 4 the alien's reentry or the alien is prima facie eligible for
- 5 protection from removal. Such alien shall be subject to
- 6 such other penalties relating to the reentry of removed
- 7 aliens as may be available under this section or any other
- 8 provision of law.
- 9 "(h) Limitation.—It is not aiding and abetting a
- 10 violation of this section for an individual to provide an
- 11 alien with emergency humanitarian assistance, including
- 12 emergency medical care and food, or to transport the alien
- 13 to a location where such assistance can be rendered with-
- 14 out compensation or the expectation of compensation.
- 15 "(i) Definitions.—In this section:
- 16 "(1) Felony.—The term 'felony' means any
- 17 criminal offense punishable by a term of imprison-
- ment of more than 1 year under the laws of the
- 19 United States, any State, or a foreign government.
- 20 "(2) MISDEMEANOR.—The term 'misdemeanor'
- 21 means any criminal offense punishable by a term of
- imprisonment of not more than 1 year under the ap-
- plicable laws of the United States, any State, or a
- 24 foreign government.

1	"(3) Removal.—The term 'removal' includes
2	any denial of admission, exclusion, deportation, or
3	removal, or any agreement by which an alien stipu-
4	lates or agrees to exclusion, deportation, or removal.
5	"(4) State.—The term 'State' means a State
6	of the United States, the District of Columbia, and
7	any commonwealth, territory, or possession of the
8	United States.".
9	SEC. 3706. PENALTIES RELATING TO VESSELS AND AIR-
10	CRAFT.
11	Section 243(c) (8 U.S.C. 1253(c)) is amended—
12	(1) by striking "Attorney General" each place
13	such term appears and inserting "Secretary of
14	Homeland Security";
15	(2) by striking "Commissioner" each place such
16	term appears and inserting "Secretary of Homeland
17	Security"; and
18	(3) in paragraph (1)—
19	(A) in subparagraph (A), by striking
20	"\$2,000" and inserting "\$5,000";
21	(B) in subparagraph (B), by striking
22	"\$5,000" and inserting "\$10,000";
23	(C) by amending subparagraph (C) to read
24	as follows:

1	"(C) Compromise.—The Secretary of
2	Homeland Security, in the Secretary's
3	unreviewable discretion and upon the receipt of
4	a written request, may mitigate the monetary
5	penalties required under this subsection for
6	each alien stowaway to an amount equal to not
7	less than \$2,000, upon such terms that the Sec-
8	retary determines to be appropriate."; and
9	(D) by inserting at the end the following:
10	"(D) Exception.—A person, acting with-
11	out compensation or the expectation of com-
12	pensation, is not subject to penalties under this
13	paragraph if the person is—
14	"(i) providing, or attempting to pro-
15	vide, an alien with humanitarian assist-
16	ance, including emergency medical care or
17	food or water; or
18	"(ii) transporting the alien to a loca-
19	tion where such humanitarian assistance
20	can be rendered without compensation or
21	the expectation of compensation.".

1	SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION
2	FRAUD OFFENSES.
3	(a) Trafficking in Passports.—Section 1541 of
4	title 18, United States Code, is amended to read as fol-
5	lows:
6	"§ 1541. Trafficking in passports
7	"(a) Multiple Passports.—Subject to subsection
8	(b), any person who, during any period of 3 years or less,
9	knowingly—
10	"(1) and without lawful authority produces,
11	issues, or transfers 3 or more passports;
12	"(2) forges, counterfeits, alters, or falsely
13	makes 3 or more passports;
14	"(3) secures, possesses, uses, receives, buys,
15	sells, or distributes 3 or more passports, knowing
16	the passports to be forged, counterfeited, altered,
17	falsely made, stolen, procured by fraud, or produced
18	or issued without lawful authority; or
19	"(4) completes, mails, prepares, presents, signs,
20	or submits 3 or more applications for a United
21	States passport, knowing the applications to contain
22	any materially false statement or representation,
23	shall be fined under this title, imprisoned not more than
24	20 years, or both.
25	"(b) Use in a Terrorism Offense.—Any person
26	who commits an offense described in subsection (a) to fa-

- 1 cilitate an act of international terrorism (as defined in sec-
- 2 tion 2331) shall be fined under this title, imprisoned not
- 3 more than 25 years, or both.
- 4 "(c) Passport Materials.—Any person who know-
- 5 ingly and without lawful authority produces, buys, sells,
- 6 possesses, or uses any official material (or counterfeit of
- 7 any official material) used to make 10 or more passports,
- 8 including any distinctive paper, seal, hologram, image,
- 9 text, symbol, stamp, engraving, or plate, shall be fined
- 10 under this title, imprisoned not more than 20 years, or
- 11 both.".
- 12 (b) False Statement in an Application for a
- 13 Passports.—Section 1542 of title 18, United States
- 14 Code, is amended to read as follows:
- 15 "§ 1542. False statement in an application for a pass-
- 16 port
- 17 "(a) In General.—Any person who knowingly
- 18 makes any material false statement or representation in
- 19 an application for a United States passport, or mails, pre-
- 20 pares, presents, or signs an application for a United
- 21 States passport knowing the application to contain any
- 22 material false statement or representation, shall be fined
- 23 under this title, imprisoned not more than 25 years (if
- 24 the offense was committed to facilitate an act of inter-
- 25 national terrorism (as defined in section 2331 of this

- 1 title)), 20 years (if the offense was committed to facilitate
 2 a drug trafficking crime (as defined in section 929(a) of
- 3 this title)), 15 years (in the case of any other offense),
- 4 or both.
- 5 "(b) VENUE.—
- 6 "(1) IN GENERAL.—An offense under sub-7 section (a) may be prosecuted in any district—
- 8 "(A) in which the false statement or rep-9 resentation was made or the application for a 10 United States passport was prepared or signed;
- 11 or
- 12 "(B) in which or to which the application 13 was mailed or presented.
- 14 "(2) **OFFENSES** OUTSIDE THE UNITED 15 STATES.—An offense under subsection (a) involving 16 an application prepared and adjudicated outside the 17 United States may be prosecuted in the district in 18 which the resultant passport was or would have been 19 produced.
- 20 "(c) SAVINGS CLAUSE.—Nothing in this section may 21 be construed to limit the venue otherwise available under
- 22 sections 3237 and 3238 of this title.".
- 23 (c) Misuse of a Passport.—Section 1544 of title
- 24 18, United States Code, is amended to read as follows:

" \S 1544. Misuse of a passport

2	"Any person who knowingly—
3	"(1) misuses or attempts to misuse for their
4	own purposes any passport issued or designed for
5	the use of another;
6	"(2) uses or attempts to use any passport in
7	violation of the laws, regulations, or rules governing
8	the issuance and use of the passport;
9	"(3) secures, possesses, uses, receives, buys,
10	sells, or distributes or attempts to secure, possess,
11	use, receive, buy, sell, or distribute any passport
12	knowing the passport to be forged, counterfeited, al-
13	tered, falsely made, procured by fraud, or produced
14	or issued without lawful authority; or
15	"(4) substantially violates the terms and condi-
16	tions of any safe conduct duly obtained and issued
17	under the authority of the United States,
18	shall be fined under this title, imprisoned not more than
19	25 years (if the offense was committed to facilitate an act
20	of international terrorism (as defined in section 2331 of
21	this title)), 20 years (if the offense was committed to fa-
22	cilitate a drug trafficking crime (as defined in section
23	929(a) of this title)), 15 years (in the case of any other
24	offense), or both.".

1	(d) Schemes To Provide Fraudulent Immigra-
2	TION SERVICES.—Section 1545 of title 18, United States
3	Code, is amended to read as follows:
4	"§ 1545. Schemes to provide fraudulent immigration
5	services
6	"(a) In General.—Any person who knowingly exe-
7	cutes a scheme or artifice, in connection with any matter
8	that is authorized by or arises under any Federal immigra-
9	tion law or any matter the offender claims or represents
10	is authorized by or arises under any Federal immigration
11	law, to—
12	"(1) defraud any person; or
13	"(2) obtain or receive money or anything else of
14	value from any person by means of false or fraudu-
15	lent pretenses, representations, or promises,
16	shall be fined under this title, imprisoned not more than
17	10 years, or both.
18	"(b) MISREPRESENTATION.—Any person who know-
19	ingly and falsely represents that such person is an attor-
20	ney or an accredited representative (as that term is de-
21	fined in section 1292.1 of title 8, Code of Federal Regula-
22	tions (or any successor regulation)) in any matter arising

23 under any Federal immigration law shall be fined under

24 this title, imprisoned not more than 15 years, or both.".

1	(e) Immigration and Visa Fraud.—Section 1546
2	of title 18, United States Code, is amended—
3	(1) by amending the section heading to read as
4	follows:
5	"§ 1546. Immigration and visa fraud";
6	(2) by redesignating subsection (b) as sub-
7	section (d); and
8	(3) by inserting after subsection (a) the fol-
9	lowing new subsections:
10	"(b) Trafficking.—Any person who, during any pe-
11	riod of 3 years or less, knowingly—
12	"(1) and without lawful authority produces,
13	issues, or transfers 3 or more immigration docu-
14	ments;
15	"(2) forges, counterfeits, alters, or falsely
16	makes 3 or more immigration documents;
17	"(3) secures, possesses, uses, buys, sells, or dis-
18	tributes 3 or more immigration documents, knowing
19	the immigration documents to be forged, counter-
20	feited, altered, stolen, falsely made, procured by
21	fraud, or produced or issued without lawful author-
22	ity; or
23	"(4) completes, mails, prepares, presents, signs,
24	or submits 3 or more immigration documents know-

- 1 ing the documents to contain any materially false
- 2 statement or representation,
- 3 shall be fined under this title, imprisoned not more than
- 4 20 years, or both.
- 5 "(c) Immigration Document Materials.—Any
- 6 person who knowingly and without lawful authority pro-
- 7 duces, buys, sells, possesses, or uses any official material
- 8 (or counterfeit of any official material) used to make 10
- 9 or more immigration documents, including any distinctive
- 10 paper, seal, hologram, image, text, symbol, stamp, engrav-
- 11 ing, or plate, shall be fined under this title, imprisoned
- 12 not more than 20 years, or both.".
- 13 (f) ALTERNATIVE IMPRISONMENT MAXIMUM FOR
- 14 CERTAIN OFFENSES.—Section 1547 of title 18, United
- 15 States Code, is amended—
- 16 (1) in the matter preceding paragraph (1), by
- 17 striking "(other than an offense under section
- 18 1545)";
- 19 (2) in paragraph (1), by striking "15" and in-
- serting "20"; and
- 21 (3) in paragraph (2), by striking "20" and in-
- 22 serting "25".
- 23 (g) AUTHORIZED LAW ENFORCEMENT ACTIVITIES.—
- 24 Chapter 75 of title 18, United States Code, is amended
- 25 by adding after section 1547 the following:

1 "§ 1548. Authorized law enforcement activities

- 2 "Nothing in this chapter may be construed to pro-
- 3 hibit—
- 4 "(1) any lawfully authorized investigative, pro-
- 5 tective, or intelligence activity of a law enforcement
- 6 agency of the United States, a State, or a political
- 7 subdivision of a State, or an intelligence agency of
- 8 the United States; or
- 9 "(2) any activity authorized under title V of the
- Organized Crime Control Act of 1970 (Public Law
- 11 91–452; 84 Stat. 933).".
- 12 (h) Table of Sections Amendment.—The table
- 13 of sections for chapter 75 of title 18, United States Code,
- 14 is amended to read as follows:

15 SEC. 3708. COMBATING SCHEMES TO DEFRAUD ALIENS.

- 16 (a) Regulations, Forms, and Procedures.—The
- 17 Secretary and the Attorney General, for matters within
- 18 their respective jurisdictions arising under the immigra-
- 19 tion laws, shall promulgate appropriate regulations, forms,
- 20 and procedures defining the circumstances in which—

[&]quot;Sec.

[&]quot;1541. Trafficking in passports.

[&]quot;1542. False statement in an application for a passport.

[&]quot;1543. Forgery or false use of a passport.

[&]quot;1544. Misuse of a passport.

[&]quot;1545. Schemes to provide fraudulent immigration services.

[&]quot;1546. Immigration and visa fraud.

[&]quot;1547. Alternative imprisonment maximum for certain offenses.

[&]quot;1548. Authorized law enforcement activities.".

- 1 (1) persons submitting applications, petitions,
 2 motions, or other written materials relating to immi3 gration benefits or relief from removal under the im4 migration laws will be required to identify who
 5 (other than immediate family members) assisted
 6 them in preparing or translating the immigration
 7 submissions; and
 - (2) any person or persons who received compensation (other than a nominal fee for copying, mailing, or similar services) in connection with the preparation, completion, or submission of such materials will be required to sign the form as a preparer and provide identifying information.
- 14 CIVIL INJUNCTIONS AGAINST IMMIGRATION 15 SERVICE PROVIDER.—The Attorney General may com-16 mence a civil action in the name of the United States to 17 enjoin any immigration service provider from further en-18 gaging in any fraudulent conduct that substantially inter-19 feres with the proper administration of the immigration 20 laws or who willfully misrepresents such provider's legal 21 authority to provide representation before the Department 22 of Justice or the Department.
- 23 (c) Definitions.—In this section:
- 24 (1) IMMIGRATION LAWS.—The term "immigra-25 tion laws" has the meaning given that term in sec-

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1	tion 101(a)(17) of the Immigration and Nationality
2	Act (8 U.S.C. 1101(a)(17)).
3	(2) Immigration service provider.—The
4	term "immigration service provider" means any indi-
5	vidual or entity (other than an attorney or individual
6	otherwise authorized to provide representation in im-
7	migration proceedings as provided in Federal regula-
8	tion) who, for a fee or other compensation, provides
9	any assistance or representation to aliens in relation
10	to any filing or proceeding relating to the alien
11	which arises, or which the provider claims to arise,
12	under the immigration laws, executive order, or pres-
	idential presidentian
13	idential proclamation.
1314	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT
14	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT
14 15	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8
141516	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8
14 15 16 17	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended—
14 15 16 17 18	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended— (1) in subclause (I), by striking ", or" at the
14 15 16 17 18	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended— (1) in subclause (I), by striking ", or" at the end and inserting a semicolon;
14 15 16 17 18 19 20	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended— (1) in subclause (I), by striking ", or" at the end and inserting a semicolon; (2) in subclause (II), by striking the comma at
14 15 16 17 18 19 20 21	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended— (1) in subclause (I), by striking ", or" at the end and inserting a semicolon; (2) in subclause (II), by striking the comma at the end and inserting "; or"; and
14 15 16 17 18 19 20 21 22	SEC. 3709. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES. (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended— (1) in subclause (I), by striking ", or" at the end and inserting a semicolon; (2) in subclause (II), by striking the comma at the end and inserting "; or"; and (3) by inserting after subclause (II) the fol-

1	1546 of title 18, United States
2	Code,".
3	(b) Removal.—Section 237(a)(3)(B)(iii) (8 U.S.C.
4	1227(a)(3)(B)(iii)) is amended to read as follows:
5	"(iii) of a violation of section 1541,
6	1545, and subsection (b) of section 1546
7	of title 18, United States Code,".
8	(c) Effective Date.—The amendments made by
9	subsections (a) and (b) shall apply to proceedings pending
10	on or after the date of the enactment of this Act, with
11	respect to conduct occurring on or after that date.
12	SEC. 3710. DIRECTIVES RELATED TO PASSPORT AND DOCU-
12	
13	MENT FRAUD.
13	
13 14	MENT FRAUD.
	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SEN-
13 14 15	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—
13 14 15 16	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority
13 14 15 16 17	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code,
13 14 15 16 17	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall pro-
13 14 15 16 17 18	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate or amend the sentencing guidelines, policy
13 14 15 16 17 18 19 20	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate or amend the sentencing guidelines, policy statements, and official commentaries, if appro-
13 14 15 16 17 18 19 20 21	MENT FRAUD. (a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.— (1) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate or amend the sentencing guidelines, policy statements, and official commentaries, if appropriate, related to passport fraud offenses, including

1	(2) Report.—Not later than 1 year after the
2	date of the enactment of this Act, the United States
3	Sentencing Commission shall submit a report on the
4	implementation of this subsection to—
5	(A) the Committee on the Judiciary of the
6	Senate; and
7	(B) the Committee on the Judiciary of the
8	House of Representatives.
9	(b) Protection for Legitimate Refugees and
10	ASYLUM SEEKERS.—
11	(1) In General.—
12	(A) REQUIREMENT FOR GUIDELINES.—
13	The Attorney General, in consultation with the
14	Secretary, shall develop binding prosecution
15	guidelines for Federal prosecutors to ensure
16	that each prosecution of an alien seeking entry
17	into the United States by fraud is consistent
18	with the United States treaty obligations under
19	Article 31(1) of the Convention Relating to the
20	Status of Refugees, done at Geneva July 28,
21	1951 (as made applicable by the Protocol Relat-
22	ing to the Status of Refugees, done at New
23	York January 31, 1967 (19 UST 6223)).
24	(B) No private right of action.—The
25	guidelines developed pursuant to subparagraph

1	(A), and any internal office procedures related
2	to such guidelines—
3	(i) are intended solely for the guid-
4	ance of attorneys of the United States; and
5	(ii) are not intended to, do not, and
6	may not be relied upon to, create any right
7	or benefit, substantive or procedural, en-
8	forceable at law by any party in any ad-
9	ministrative, civil, or criminal matter.
10	(2) Protection of Vulnerable Persons.—
11	A person described in paragraph (3) may not be
12	prosecuted under chapter 75 of title 18, United
13	States Code, or under section 275 or 276 of the Im-
14	migration and Nationality Act (8 U.S.C. 1325 and
15	1326), in connection with the person's entry or at-
16	tempted entry into the United States until after the
17	date on which the person's application for such pro-
18	tection, classification, or status has been adjudicated
19	and denied in accordance with the Immigration and
20	Nationality Act (8 U.S.C. 1101 et seq.).
21	(3) Persons seeking protection, classi-
22	FICATION, OR STATUS.—A person described in this
23	paragraph is a person who—
24	(A) is seeking protection, classification, or
25	status; and

1	(B)(i) has filed an application for asylum
2	under section 208 of the Immigration and Na-
3	tionality Act (8 U.S.C. 1158), withholding of
4	removal under section 241(b)(3) of such Act (8
5	U.S.C. 1231(b)(3)), or relief under the Conven-
6	tion against Torture and Other Cruel, Inhuman
7	or Degrading Treatment or Punishment, done
8	at New York, December 10, 1994, pursuant to
9	title 8, Code of Federal Regulations;
10	(ii) indicates immediately after apprehen-
11	sion, that he or she intends to apply for such
12	asylum, withholding of removal, or relief and
13	promptly files the appropriate application;
14	(iii) has been referred for a credible fear
15	interview, a reasonable fear interview, or an
16	asylum-only hearing under section 235 of the
17	Immigration and Nationality Act (8 U.S.C.
18	1225) or part 208 of title 8, Code of Federal
19	Regulations; or
20	(iv) has filed an application for classifica-
21	tion or status under—
22	(I) subparagraph (T) or (U) of para-
23	graph (15), paragraph (27)(J), or para-
24	graph (51) of section 101(a) of the Immi-

1	gration and Nationality Act (8 U.S.C.
2	1101(a)); or
3	(II) section $216(c)(4)(C)$ or
4	240A(b)(2) of such Act (8 U.S.C.
5	1186a(e)(4)(C) and $1229b(b)(2)$.
6	SEC. 3711. INADMISSIBLE ALIENS.
7	(a) Deterring Aliens Ordered Removed From
8	REMAINING IN THE UNITED STATES UNLAWFULLY.—
9	Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amend-
10	ed—
11	(1) in clause (i), by striking "seeks admission
12	within 5 years of the date of such removal (or within
13	20 years" and inserting "seeks admission not later
14	than 5 years after the date of the alien's removal (or
15	not later than 20 years after the alien's removal";
16	and
17	(2) in clause (ii), by striking "seeks admission
18	within 10 years of the date of such alien's departure
19	or removal (or within 20 years of" and inserting
20	"seeks admission not later than 10 years after the
21	date of the alien's departure or removal (or not later
22	than 20 years after".
23	(b) BIOMETRIC SCREENING.—Section 212 (8 U.S.C.
24	1182) is amended—

1	(1) in subsection $(a)(7)$, by adding at the end
2	the following:
3	"(C) WITHHOLDING INFORMATION.—Ex-
4	cept as provided in subsection (d)(2), any alien
5	who willfully, through his or her own fault, re-
6	fuses to comply with a lawful request for bio-
7	metric information is inadmissible."; and
8	(2) in subsection (d), by inserting after para-
9	graph (1) the following:
10	"(2) The Secretary may waive the application
11	of subsection $(a)(7)(C)$ for an individual alien or a
12	class of aliens.".
13	(c) Precluding Admissibility of Aliens Con-
14	VICTED OF SERIOUS CRIMINAL OFFENSES AND DOMESTIC
15	VIOLENCE, STALKING, CHILD ABUSE, AND VIOLATION OF
16	PROTECTION ORDERS.—
17	(1) Inadmissibility on criminal and re-
18	LATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C.
19	1182), as amended by this Act, is further amend-
20	ed—
21	(A) in subsection (a)(2), as amended by
22	sections 3401 and 3402, is further amended by
23	inserting after subparagraph (J) the following:

1	"(K) Crimes of domestic violence,
2	STALKING, OR VIOLATION OF PROTECTIVE OR-
3	DERS; CRIMES AGAINST CHILDREN.—
4	"(i) Domestic violence, stalking,
5	AND CHILD ABUSE.—
6	"(I) In General.—Any alien
7	who has been convicted of a crime of
8	domestic violence, a crime of stalking,
9	or a crime of child abuse, child ne-
10	glect, or child abandonment, provided
11	the alien served at least 1 year impris-
12	onment for the crime, or provided the
13	alien was convicted of offenses consti-
14	tuting more than 1 such crime, not
15	arising out of a single scheme of
16	criminal misconduct, is inadmissible.
17	"(II) CRIME OF DOMESTIC VIO-
18	LENCE DEFINED.—In this clause, the
19	term 'crime of domestic violence'
20	means any crime of violence (as de-
21	fined in section 16 of title 18, United
22	States Code) against a person com-
23	mitted by a current or former spouse
24	of the person, by an individual with
25	whom the person shares a child in

1	common, by an individual who is co-
2	habiting with or has cohabited with
3	the person as a spouse, by an indi-
4	vidual similarly situated to a spouse
5	of the person under the domestic or
6	family violence laws of the jurisdiction
7	where the offense occurs, or by any
8	other individual against a person who
9	is protected from that individual's
10	acts under the domestic or family vio-
11	lence laws of the United States or any
12	State, Indian tribal government, or
13	unit of local or foreign government.
14	"(ii) Violators of protection or-
15	DERS.—
16	"(I) IN GENERAL.—Any alien
17	who at any time is enjoined under a
18	protection order issued by a court and
19	whom the court determines has en-
20	gaged in conduct that constitutes
21	criminal contempt of the portion of a
22	protection order that involves protec-
23	tion against credible threats of vio-

lence, repeated harassment, or bodily

injury to the person or persons for

24

1	whom the protection order was issued
2	is inadmissible.
3	"(II) PROTECTION ORDER DE-
4	FINED.—In this clause, the term 'pro-
5	tection order' means any injunction
6	issued for the purpose of preventing
7	violent or threatening acts of domestic
8	violence, including temporary or final
9	orders issued by civil or criminal
10	courts (other than support or child
11	custody orders or provisions) whether
12	obtained by filing an independent ac-
13	tion or as an independent order in an-
14	other proceeding.
15	"(iii) Applicability.—This subpara-
16	graph shall not apply to an alien who has
17	been battered or subjected to extreme cru-
18	elty and who is not and was not the pri-
19	mary perpetrator of violence in the rela-
20	tionship, upon a determination by the At-
21	torney General or the Secretary of Home-
22	land Security that—
23	"(I) the alien was acting in self-
24	defense;

1	"(II) the alien was found to have
2	violated a protection order intended to
3	protect the alien; or
4	"(III) the alien committed, was
5	arrested for, was convicted of, or pled
6	guilty to committing a crime that did
7	not result in serious bodily injury.";
8	and
9	(B) in subsection (h)—
10	(i) by striking "The Attorney General
11	may, in his discretion, waive the applica-
12	tion of subparagraphs (A)(i)(I), (B), (D),
13	and (E) of subsection (a)(2)" and inserting
14	"The Attorney General or the Secretary of
15	Homeland Security may waive the applica-
16	tion of subparagraphs (A)(i)(I), (B), (D),
17	and (E) of subsection (a)(2)"; and
18	(ii) by inserting "or the Secretary of
19	Homeland Security' after "the Attorney
20	General" each place that term appears.
21	(2) Effective date.—The amendments made
22	by this subsection shall apply to any acts that oc-
23	curred on or after the date of the enactment of this
24	Act.

1	SEC. 3712. ORGANIZED AND ABUSIVE HUMAN SMUGGLING
2	ACTIVITIES.
3	(a) Enhanced Penalties.—
4	(1) IN GENERAL.—Title II (8 U.S.C. 1151 et
5	seq.) is amended by adding at the end the following:
6	"SEC. 295. ORGANIZED HUMAN SMUGGLING.
7	"(a) Prohibited Activities.—Whoever, while act-
8	ing for profit or other financial gain, knowingly directs
9	or participates in an effort or scheme to assist or cause
10	5 or more persons (other than a parent, spouse, or child
11	of the offender)—
12	"(1) to enter, attempt to enter, or prepare to
13	enter the United States—
14	"(A) by fraud, falsehood, or other corrupt
15	means;
16	"(B) at any place other than a port or
17	place of entry designated by the Secretary; or
18	"(C) in a manner not prescribed by the im-
19	migration laws and regulations of the United
20	States; or
21	"(2) to travel by air, land, or sea toward the
22	United States (whether directly or indirectly)—
23	"(A) knowing that the persons seek to
24	enter or attempt to enter the United States
25	without lawful authority, and

1	"(B) with the intent to aid or further such
2	entry or attempted entry; or
3	"(3) to be transported or moved outside of the
4	United States—
5	"(A) knowing that such persons are aliens
6	in unlawful transit from 1 country to another
7	or on the high seas; and
8	"(B) under circumstances in which the
9	persons are in fact seeking to enter the United
10	States without official permission or legal au-
11	thority;
12	shall be punished as provided in subsection (c) or
13	(d).
14	"(b) Conspiracy and Attempt.—Any person who
15	attempts or conspires to violate subsection (a) of this sec-
16	tion shall be punished in the same manner as a person
17	who completes a violation of such subsection.
18	"(c) Base Penalty.—Except as provided in sub-
19	section (d), any person who violates subsection (a) or (b)
20	shall be fined under title 18, imprisoned for not more than
21	20 years, or both.
22	"(d) Enhanced Penalties.—Any person who vio-
23	lates subsection (a) or (b) shall—
24	"(1) in the case of a violation during and in re-
25	lation to which a serious bodily injury (as defined in

- section 1365 of title 18) occurs to any person, be fined under title 18, imprisoned for not more than 3 years, or both;
 - "(2) in the case of a violation during and in relation to which the life of any person is placed in jeopardy, be fined under title 18, imprisoned for not more than 30 years, or both;
 - "(3) in the case of a violation involving 10 or more persons, be fined under title 18, imprisoned for not more than 30 years, or both;
 - "(4) in the case of a violation involving the bribery or corruption of a U.S. or foreign government official, be fined under title 18, imprisoned for not more than 30 years, or both;
 - "(5) in the case of a violation involving robbery or extortion (as those terms are defined in paragraph (1) or (2), respectively, of section 1951(b)) be fined under title 18, imprisoned for not more than 30 years, or both;
 - "(6) in the case of a violation during and in relation to which any person is subjected to an involuntary sexual act (as defined in section 2246(2) of title 18), be fined under title 18, imprisoned for not more than 30 years, or both; or

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1	"(7) in the case of a violation resulting in the
2	death of any person, be fined under title 18, impris-
3	oned for any term of years or for life, or both.
4	"(e) Lawful Authority Defined.—
5	"(1) In general.—In this section, the term
6	'lawful authority'—
7	"(A) means permission, authorization, or
8	license that is expressly provided for in the im-
9	migration laws of the United States or accom-
10	panying regulations; and
11	"(B) does not include any such authority
12	secured by fraud or otherwise obtained in viola-
13	tion of law, nor does it include authority
14	sought, but not approved.
15	"(2) Application to travel or entry.—No
16	alien shall be deemed to have lawful authority to
17	travel to or enter the United States if such travel or
18	entry was, is, or would be in violation of law.
19	"(f) Effort or Scheme.—For purposes of this sec-
20	tion, 'effort or scheme to assist or cause 5 or more per-
21	sons' does not require that the 5 or more persons enter,
22	attempt to enter, prepare to enter, or travel at the same
23	time so long as the acts are completed within 1 year.

4						
1	"SEC	206	INLAWFILLY	HINDERING	IMMIGRATION.	ROR.
	DEC.	4.70.				DUL

- 2 DER, AND CUSTOMS CONTROLS.
- 3 "(a) Illicit Spotting.—Whoever knowingly trans-
- 4 mits to another person the location, movement, or activi-
- 5 ties of any Federal, State, or tribal law enforcement agen-
- 6 cy with the intent to further a Federal crime relating to
- 7 United States immigration, customs, controlled sub-
- 8 stances, agriculture, monetary instruments, or other bor-
- 9 der controls shall be fined under title 18, imprisoned not
- 10 more than 10 years, or both.
- 11 "(b) Destruction of United States Border
- 12 Controls.—Whoever knowingly and without lawful au-
- 13 thorization destroys, alters, or damages any fence, barrier,
- 14 sensor, camera, or other physical or electronic device de-
- 15 ployed by the Federal Government to control the border
- 16 or a port of entry or otherwise seeks to construct, exca-
- 17 vate, or make any structure intended to defeat, circumvent
- 18 or evade any such fence, barrier, sensor camera, or other
- 19 physical or electronic device deployed by the Federal gov-
- 20 ernment to control the border or a port of entry shall be
- 21 fined under title 18, imprisoned not more than 10 years,
- 22 or both, and if, at the time of the offense, the person uses
- 23 or carries a firearm or who, in furtherance of any such
- 24 crime, possesses a firearm, that person shall be fined
- 25 under title 18, imprisoned not more than 20 years, or
- 26 both.

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        "(c) Conspiracy and Attempt.—Any person who
    attempts or conspires to violate subsection (a) or (b) of
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 3
    this section shall be punished in the same manner as a
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    person who completes a violation of such subsection.".
 5
             (2) Table of contents amendment.—The
 6
        table of contents is amended by adding after the
 7
        item relating to section 294 the following:
    "Sec. 295. Organized human smuggling.
    "Sec. 296. Unlawfully hindering immigration, border, and customs controls.".
 8
        (b) Prohibiting Carrying or Use of a Firearm
    DURING AND IN RELATION TO AN ALIEN SMUGGLING
10
    Crime.—Section 924(c) of title 18, United States Code,
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    is amended—
12
             (1) in paragraph (1)—
                  (A) in subparagraph (A), by inserting ",
13
             alien smuggling crime," after "crime of vio-
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15
             lence" each place that term appears; and
16
                  (B) in subparagraph (D)(ii), by inserting
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             ", alien smuggling crime," after "crime of vio-
             lence"; and
18
19
             (2) by adding at the end the following:
20
        "(6) For purposes of this subsection, the term 'alien
21
    smuggling crime' means any felony punishable under sec-
22
    tion 274(a), 277, or 278 of the Immigration and Nation-
    ality Act (8 U.S.C. 1324(a), 1327, and 1328).".
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1	(c) Statute of Limitations.—Section 3298 of title
2	18, United States Code, is amended by inserting ", 295,
3	296, or 297" after "274(a)".
4	SEC. 3713. PREVENTING CRIMINALS FROM RENOUNCING
5	CITIZENSHIP DURING WARTIME.
6	Section 349(a) (8 U.S.C. 1481(a)) is amended—
7	(1) by striking paragraph (6); and
8	(2) redesignating paragraph (7) as paragraph
9	(6).
10	SEC. 3714. DIPLOMATIC SECURITY SERVICE.
11	Paragraph (1) of section 37(a) of the State Depart-
12	ment Basic Authorities Act of 1956 (22 U.S.C. 2709(a))
13	is amended to read as follows:
14	"(1) conduct investigations concerning—
15	"(A) illegal passport or visa issuance or
16	use;
17	"(B) identity theft or document fraud af-
18	fecting or relating to the programs, functions,
19	and authorities of the Secretary of State;
20	"(C) violations of chapter 77 of title 18,
21	United States Code; and
22	"(D) Federal offenses committed within
23	the special maritime and territorial jurisdiction
24	of the United States (as defined in section 7(9)
25	of title 18, United States Code);".

SEC. 3715. SECURE ALTERNATIVES PROGRAMS.

- 2 (a) In General.—The Secretary shall establish se-
- 3 cure alternatives programs that incorporate case manage-
- 4 ment services in each field office of the Department to
- 5 ensure appearances at immigration proceedings and public
- 6 safety.
- 7 (b) Contract Authority.—The Secretary shall
- 8 contract with nongovernmental community-based organi-
- 9 zations to conduct screening of detainees, provide appear-
- 10 ance assistance services, and operate community-based su-
- 11 pervision programs. Secure alternatives shall offer a con-
- 12 tinuum of supervision mechanisms and options, including
- 13 community support, depending on an assessment of each
- 14 individual's circumstances. The Secretary may contract
- 15 with nongovernmental organizations to implement secure
- 16 alternatives that maintain custody over the alien.
- 17 (c) Individualized Determinations.—In deter-
- 18 mining whether to use secure alternatives, the Secretary
- 19 shall make an individualized determination, and for each
- 20 individual placed on secure alternatives, shall review the
- 21 level of supervision on a monthly basis. Secure alternatives
- 22 shall not be used when release on bond or recognizance
- 23 is determined to be a sufficient measure to ensure appear-
- 24 ances at immigration proceedings and public safety.
- 25 (d) Custody.—The Secretary may use secure alter-
- 26 natives programs to maintain custody over any alien de-

- tained under the Immigration and Nationality Act, except
- for aliens detained under section 236A of such Act (8
- 3 U.S.C. 1226a). If an individual is not eligible for release
- 4 from custody or detention, the Secretary shall consider the
- 5 alien for placement in secure alternatives that maintain
- 6 custody over the alien, including the use of electronic ankle
- 7 devices.

8 SEC. 3716. OVERSIGHT OF DETENTION FACILITIES.

- 9 (a) Definitions.—In this section:
- 10 (1) APPLICABLE STANDARDS.—The term "applicable standards" means the most recent version of 11 12 detention standards and detention-related policies 13
- issued by the Secretary or the Director of U.S. Im-
- 14 migration and Customs Enforcement.
- 15 (2) Detention facility.—The term "deten-
- tion facility" means a Federal, State, or local gov-16
- 17 ernment facility, or a privately owned and operated
- 18 facility, that is used, in whole or in part, to hold in-
- 19 dividuals under the authority of the Director of U.S.
- 20 Immigration and Customs Enforcement, including
- 21 facilities that hold such individuals under a contract
- or agreement with the Director. 22
- 23 (b) DETENTION REQUIREMENTS.—The Secretary
- shall ensure that all persons detained pursuant to the Im-
- migration and Nationality Act (8 U.S.C. 1101 et seq.) are

1	treated humanely and benefit from the protections set
2	forth in this section.
3	(c) Oversight Requirements.—
4	(1) Annual inspection.—All detention facili-
5	ties shall be inspected by the Secretary on a regular
6	basis, but not less than annually, for compliance
7	with applicable detention standards issued by the
8	Secretary and other applicable regulations.
9	(2) ROUTINE OVERSIGHT.—In addition to an-
10	nual inspections, the Secretary shall conduct routine
11	oversight of detention facilities, including unan-
12	nounced inspections.
13	(3) AVAILABILITY OF RECORDS.—All detention
14	facility contracts, memoranda of agreement, and
15	evaluations and reviews shall be considered records
16	for purposes of section 552(f)(2) of title 5, United
17	States Code.
18	(4) Consultation.—The Secretary shall seek
19	input from nongovernmental organizations regarding
20	their independent opinion of specific facilities.
21	(d) Compliance Mechanisms.—
22	(1) AGREEMENTS.—
23	(A) NEW AGREEMENTS.—Compliance with
24	applicable standards of the Secretary and all
25	applicable regulations, and meaningful financial

- penalties for failure to comply, shall be a material term in any new contract, memorandum of agreement, or any renegotiation, modification, or renewal of an existing contract or agreement, including fee negotiations, executed with detention facilities.
 - (B) Existing agreements.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall secure a modification incorporating these terms for any existing contracts or agreements that will not be renegotiated, renewed, or otherwise modified.
 - (C) CANCELLATION OF AGREEMENTS.—
 Unless the Secretary provides a reasonable extension to a specific detention facility that is negotiating in good faith, contracts or agreements with detention facilities that are not modified within 1 year of the date of the enactment of this Act will be cancelled.
 - (D) Provision of information.—In making modifications under this paragraph, the Secretary shall require that detention facilities provide to the Secretary all contracts, memoranda of agreement, evaluations, and reviews regarding the facility on a regular basis. The

1	Secretary shall make these materials publicly
2	available.
3	(2) Financial penalties.—
4	(A) REQUIREMENT TO IMPOSE.—Subject
5	to subparagraph (C), the Secretary shall impose
6	meaningful financial penalties upon facilities
7	that fail to comply with applicable detention
8	standards issued by the Secretary and other ap-
9	plicable regulations.
10	(B) Timing of imposition.—Financial
11	penalties imposed under subparagraph (A) shall
12	be imposed immediately after a facility fails to
13	achieve an adequate or the equivalent median
14	score in any performance evaluation.
15	(C) WAIVER.—The requirements of sub-
16	paragraph (A) may be waived if the facility cor-
17	rects the noted deficiencies and receives an ade-
18	quate score in not more than 90 days.
19	(D) Multiple offenders.—In cases of
20	persistent and substantial noncompliance, in-
21	cluding scoring less than adequate or the equiv-
22	alent median score in 2 consecutive inspections,
23	the Secretary shall terminate contracts or
24	agreements with such facilities within 60 days,

or in the case of facilities operated by the Sec-

1	retary, such facilities shall be closed within 90
2	days.
3	(e) Reporting Requirements.—
4	(1) Objectives.—Not later than June 30 of
5	each year, the Secretary shall prepare and submit to
6	the Committee on the Judiciary of the Senate and
7	the Committee on the Judiciary of the House of
8	Representatives a report on inspection and oversight
9	activities of detention facilities.
10	(2) Contents.—Each report submitted under
11	paragraph (1) shall include—
12	(A) a description of each detention facility
13	found to be in noncompliance with applicable
14	detention standards issued by the Department
15	and other applicable regulations;
16	(B) a description of the actions taken by
17	the Department to remedy any findings of non-
18	compliance or other identified problems, includ-
19	ing financial penalties, contract or agreement
20	termination, or facility closure; and
21	(C) information regarding whether the ac-
22	tions described in subparagraph (B) resulted in
23	compliance with applicable detention standards
24	and regulations.

1	SEC. 3717. PROCEDURES FOR BOND HEARINGS AND FILING
2	OF NOTICES TO APPEAR.
3	(a) Aliens in Custody.—Section 236 (8 U.S.C.
4	1226) is amended by adding at the end the following:
5	"(f) Procedures for Custody Hearings.—For
6	any alien taken into custody under any provision of this
7	Act, with the exception of minors being transferred to or
8	in the custody of the Office of Refugee Resettlement, the
9	following shall apply:
10	"(1) The Secretary of Homeland Security shall,
11	without unnecessary delay and not later than 72
12	hours after the alien is taken into custody, file the
13	Notice to Appear or other relevant charging docu-
14	ment with the immigration court having jurisdiction
15	over the location where the alien was apprehended,
16	and serve such notice on the alien.
17	"(2) The Secretary shall immediately determine
18	whether the alien shall remain in custody or be re-
19	leased and, without unnecessary delay and not later
20	than 72 hours after the alien was taken into cus-
21	tody, serve upon the alien the custody decision speci-
22	fying the reasons for continued custody and the
23	amount of bond if any.
24	"(3) The Attorney General shall ensure the
25	alien has the opportunity to appear before an immi-
26	gration judge for a custody determination hearing

- promptly after service of the Secretary's custody decision. The immigration judge may, on the Secretary's motion and upon a showing of good cause, postpone a custody redetermination hearing for no more than 72 hours after service of the custody decision, except that in no case shall the hearing occur more than 6 days (including weekends and holidays) after the alien was taken into custody.
 - "(4) The immigration judge shall advise the alien of the right to postpone the custody determination hearing and shall, on the oral or written request of the individual, postpone the custody determination hearing for a period of not more than 14 days.
 - "(5) Except for aliens that the immigration judge has determined are deportable under section 236(c) or certified under section 236A, the immigration judge shall review the custody determination de novo and may continue to detain the alien only if the Secretary demonstrates that no conditions, including the use of alternatives to detention that maintain custody over the alien, will reasonably assure the appearance of the alien as required and the safety of any other person and the community. For aliens whom the immigration judge has determined are deportable under section 236(c), the immigration judge

1	may review the custody determination if the Sec-
2	retary agrees the alien is not a danger to the com-
3	munity, and alternatives to detention exist that en-
4	sure the appearance of the alien, as required, and
5	the safety of any other person and the community.
6	"(6) In the case of any alien remaining in cus-
7	tody after a custody determination, the Attorney
8	General shall provide de novo custody determination
9	hearings before an immigration judge every 90 days
10	so long as the alien remains in custody. An alien
11	may also obtain a de novo custody redetermination
12	hearing at any time upon a showing of good cause.
13	"(7) The Secretary shall inform the alien of his
14	or her rights under this paragraph at the time the
15	alien is first taken into custody.".
16	(b) Limitations on Solitary Confinement.—
17	(1) In General.—Section 236(d) (8 U.S.C.
18	1226(d)) is amended by adding at the end the fol-
19	lowing:
20	"(3) Nature of Detention.—
21	"(A) Definitions.—In this paragraph:
22	"(i) Administrative segrega-
23	TION.—The term 'administrative segrega-
24	tion' means a nonpunitive form of solitary
25	confinement for administrative reasons.

1	"(ii) Disciplinary segregation.—
2	The term 'disciplinary segregation' means
3	a punitive form of solitary confinement for
4	disciplinary reasons.
5	"(iii) Serious mental illness.—
6	The term 'serious mental illness' means a
7	substantial disorder of thought or mood
8	that significantly impairs judgment, behav-
9	ior, capacity to recognize reality, or ability
10	to cope with the ordinary demands of life.
11	"(iv) Solitary confinement.—The
12	term 'solitary confinement' means cell con-
13	finement of 22 hours or more per day.
14	"(B) Limitations on solitary confine-
15	MENT.—
16	"(i) In general.—The use of soli-
17	tary confinement of an alien in custody
18	pursuant to this section, section 235, or
19	section 241 shall be limited to situations in
20	which such confinement—
21	"(I) is necessary—
22	"(aa) to control a threat to
23	detainees, staff, or the security of
24	the facility;

1	"(bb) to discipline the alien
2	for a serious disciplinary infrac-
3	tion if alternative sanctions
4	would not adequately regulate
5	the alien's behavior; or
6	"(cc) for good order during
7	the last 24 hours before an alien
8	is released, removed, or trans-
9	ferred from the facility;
10	"(II) is limited to the briefest
11	term and under the least restrictive
12	conditions practicable and consistent
13	with the rationale for placement and
14	with the progress achieved by the
15	alien; and
16	"(III) complies with the require-
17	ments set forth in this subparagraph.
18	"(ii) Children who are
19	younger than 18 years of age may not be
20	placed in solitary confinement.
21	"(iii) Serious mental illness.—
22	"(I) IN GENERAL.—An alien with
23	a serious mental illness may not be
24	placed in involuntary solitary confine-
25	ment due to mental illness unless_

1	"(aa) such confinement is
2	necessary for the alien's own pro-
3	tection; or
4	"(bb) if the alien requires
5	emergency stabilization or poses
6	a significant threat to staff or
7	others in general population.
8	"(II) MAXIMUM PERIOD.—An
9	alien diagnosed with serious mental
10	illness may not be placed in solitary
11	confinement for more than 15 days
12	unless the Secretary of Homeland Se-
13	curity determines that—
14	"(aa) any less restrictive al-
15	ternative is more likely than not
16	to cause greater harm to the
17	alien than the solitary confine-
18	ment period imposed; or
19	"(bb) the likely harm to the
20	alien is not substantial and the
21	period of solitary confinement is
22	the least restrictive alternative
23	necessary to protect the alien,
24	other detainees, or others.
25	"(iv) Own protection.—

1	"(I) In General.—Involuntary
2	solitary confinement for an alien's
3	own protection may be used only for
4	the least amount of time practicable
5	and if no readily available and less re-
6	strictive alternative will maintain the
7	alien's safety.
8	"(II) MAXIMUM PERIOD.—An
9	alien may not be placed in involuntary
10	solitary confinement for the alien's
11	own protection for longer than 15
12	days unless the Secretary of Home-
13	land Security determines that any less
14	restrictive alternative is more likely
15	than not to cause greater harm to the
16	alien than the solitary confinement pe-
17	riod imposed.
18	"(III) PROHIBITED FACTORS.—
19	The Secretary of Homeland Security
20	may not rely solely on an alien's age,
21	physical disability, sexual orientation,
22	gender identity, race, or religion. The
23	Secretary shall make an individualized
24	assessment in each case.

1	"(v) Medical care.—An alien placed
2	in solitary confinement—
3	"(I) shall be visited by a medical
4	professional at least 3 times each
5	week;
6	"(II) shall receive at least weekly
7	mental health monitoring by a li-
8	censed mental health clinician; and
9	"(III) shall be removed from soli-
10	tary confinement if—
11	"(aa) a mental health clini-
12	cian determines that such deten-
13	tion is having a significant nega-
14	tive impact on the alien's mental
15	health; and
16	"(bb) an appropriate alter-
17	native is available.
18	"(vi) Notification; access to
19	COUNSEL.—If an alien is placed in solitary
20	confinement, the alien—
21	"(I) shall be informed verbally,
22	and in writing, of the reason for such
23	confinement and the intended dura-
24	tion of such confinement, if specified
25	at the time of initial placement; and

1	"(II) shall be offered access to
2	counsel on the same basis as detainees
3	in the general population.
4	"(vii) Longer solitary confine-
5	MENT PERIODS.—If an alien has been sub-
6	ject to involuntary solitary confinement for
7	more than 14 consecutive days, the Sec-
8	retary of Homeland Security shall conduct
9	a timely review to determine whether con-
10	tinued placement is justified by an extreme
11	disciplinary infraction or is the least re-
12	strictive means of protecting the alien or
13	others. Any alien held in solitary confine-
14	ment for more than 7 days shall be given
15	a reasonable opportunity to challenge such
16	placement with the detention facility ad-
17	ministrator, which will promptly respond to
18	such challenge in writing.
19	"(viii) Oversight.—The Secretary of
20	Homeland Security shall ensure that—
21	"(I) he or she is regularly in-
22	formed about the use of solitary con-
23	finement in all facilities at which
24	aliens are detained; and

1	"(II) the Department fully com-
2	plies with the provisions under this
3	paragraph.
4	"(C) DISCIPLINARY SEGREGATION.—Dis-
5	ciplinary segregation is authorized only pursu-
6	ant to the order of a facility disciplinary pane
7	following a hearing in which the detainee is de-
8	termined to have violated a facility rule.
9	"(D) Administrative segregation.—
10	Administrative segregation is authorized only as
11	necessary to ensure the safety of the detained
12	or others, the protection of property, or the se-
13	curity or good order of the facility. Detainees in
14	administrative segregation shall be offered pro-
15	gramming opportunities and privileges con-
16	sistent with those available in the general popu-
17	lation, except where precluded by safety or se-
18	curity concerns.".
19	(2) Annual Report.—The Secretary shall—
20	(A) collect and compile information regard-
21	ing the prevalence, reasons for, and duration of
22	solitary confinement in all facilities described in
23	paragraph (3);
24	(B) submit an annual report containing
25	the information described in subparagraph (A)

l	to Congress not later than 30 days after the
2	end of the reporting period; and
3	(C) make the data contained in the report
4	submitted under subparagraph (B) publicly
5	available.
6	(3) Rulemaking.—The Secretary shall adopt
7	regulations or policies to carry out section 236(d)(3)
8	of the Immigration and Nationality Act, as amended
9	by paragraph (1), at all facilities at which aliens are
10	detained pursuant to section 235, 236, or 241 of
11	such Act.
12	(c) Stipulated Removal.—Section 240(d) (8
13	U.S.C. 1229a) is amended to read as follows:
14	"(d) STIPULATED REMOVAL.—The Attorney General
15	shall provide by regulation for the entry by an immigration
16	judge of an order of removal stipulated to by the alien
17	(or the alien's representative) and the Service. An immi-
18	gration judge may enter a stipulated removal order only
19	upon a finding at an in-person hearing that the stipulation
20	is voluntary, knowing, and intelligent. A stipulated order
21	shall constitute a conclusive determination of the alien's
22	removability from the United States.".

1	SEC. 3718. SANCTIONS FOR COUNTRIES THAT DELAY OR
2	PREVENT REPATRIATION OF THEIR NATION-
3	ALS.
4	Section 243(d) (8 U.S.C. 1253(d)) is amended to
5	read as follows:
6	"(d) Discontinuing Granting Visas to Nation-
7	ALS OF COUNTRIES THAT DENY OR DELAY ACCEPTING
8	ALIENS.—Notwithstanding section 221(c), if the Sec-
9	retary of Homeland Security determines, in consultation
10	with the Secretary of State, that the government of a for-
11	eign country denies or unreasonably delays accepting
12	aliens who are citizens, subjects, nationals, or residents
13	of that country after the Secretary asks whether the gov-
14	ernment will accept an alien under this section, or after
15	a determination that the alien is inadmissible under para-
16	graph (6) or (7) of section 212(a), the Secretary of State
17	shall order consular officers in that foreign country to dis-
18	continue granting visas, or classes of visas, until the Sec-
19	retary of Homeland Security notifies the Secretary of
20	State that the country has accepted the aliens.".
21	SEC. 3719. GROSS VIOLATIONS OF HUMAN RIGHTS.
22	(a) Inadmissibility of Certain Aliens.—Section
23	212(a)(3)(E) (8 U.S.C. 1182(a)(3)(E)) is amended by
24	striking clause (iii) and inserting the following:
25	"(iii) Commission of acts of tor-
26	TURE, EXTRAJUDICIAL KILLINGS, WAR

1	CRIMES, OR WIDESPREAD OR SYSTEMATIC
2	ATTACKS ON CIVILIANS.—Any alien who
3	planned, ordered, assisted, aided and abet-
4	ted, committed, or otherwise participated,
5	including through command responsibility,
6	in the commission of—
7	"(I) any act of torture (as de-
8	fined in section 2340 of title 18,
9	United States Code);
10	"(II) any extrajudicial killing (as
11	defined in section 3(a) of the Torture
12	Victim Protection Act of 1991 (28
13	U.S.C. 1350 note)) under color of law
14	of any foreign nation;
15	"(III) a war crime (as defined in
16	section 2441 of title 18, United States
17	Code); or
18	"(IV) any of the following acts as
19	a part of a widespread or systematic
20	attack directed against a civilian pop-
21	ulation, with knowledge of the attack:
22	murder, extermination, enslavement,
23	forcible transfer of population, arbi-
24	trary detention, rape, sexual slavery,
25	enforced prostitution, forced preg-

1 nancy, enforced sterilization, or any 2 other form of sexual violence of com-3 parable gravity; persecution on polit-4 ical racial, national, ethnic, cultural, religious, or gender grounds; enforced 6 disappearance of persons; or other in-7 humane acts of a similar character in-8 tentionally causing great suffering or 9 serious bodily or mental injury, 10 is inadmissible. 11 "(iv) Limitation.—Clause (iii) shall 12 not apply to an alien if the Secretary of 13 Homeland Security or the Attorney Gen-14 eral determine that the actions giving rise 15 to the alien's inadmissibility under such clause were committed under duress. In 16 17 determining whether the alien was subject 18 to duress, the Secretary may consider, 19 among relevant factors, the age of the 20 alien at the time such actions were com-21 mitted.". 22 (b) Denying Safe Haven to Foreign Human 23 RIGHTS VIOLATORS.—Section 2(a)(2) of the Torture Vic-

tim Protection Act of 1991 (28 U.S.C. 1350 note) is

1	(1) by inserting after "killing" the following: ",
2	a war crime (as defined in subsections (c) and (d)
3	of section 2441 of title 18, United States Code), a
4	widespread or systematic attack on civilians (as de-
5	fined in section 212(a)(3)(E)(iii)(IV) of the Immi-
6	gration and Nationality Act), or genocide (as defined
7	in section 1091(a) of such title 18)"; and
8	(2) by striking "to the individual's legal rep-
9	resentative" and inserting "to that individual or to
10	that individual's legal representative".
11	(c) Nonapplicability of Confidentiality Re-
12	QUIREMENT WITH RESPECT TO VISA RECORDS.—The
13	President may make public, without regard to the require-
14	ments under section 222(f) of the Immigration and Na-
15	tionality Act (8 U.S.C. 1202(f)), with respect to confiden-
16	tiality of records pertaining to the issuance or refusal of
17	visas or permits to enter the United States, the names
18	of aliens deemed inadmissible on the basis of section
19	212(a)(3)(E)(iii) of such Act, as amended by subsection
20	(a).
21	SEC. 3720. REPORTING AND RECORD KEEPING REQUIRE-
22	MENTS RELATING TO THE DETENTION OF
23	ALIENS.
24	(a) In General.—In order for Congress and the
25	public to assess the full costs of apprehending, detaining,

- 1 processing, supervising, and removing aliens, and how the
- 2 money Congress appropriates for detention is allocated by
- 3 Federal agencies, the Assistant Secretary for Immigration
- 4 and Customs and Enforcement (referred to in this section
- 5 as the "Assistant Secretary", the Director of the Execu-
- 6 tive Office of Immigration Review, and the Commissioner
- 7 responsible for U.S. Customs and Border Protection (re-
- 8 ferred to in this section as the "Commissioner") shall—
- 9 (1) maintain the information required under
- subsections (b), (c), and (d); and
- 11 (2) submit reports on that information to Con-
- gress and make that information available to the
- public in accordance with subsection (e).
- 14 (b) Maintenance of Information by U.S. Immi-
- 15 GRATION AND CUSTOMS ENFORCEMENT.—The Assistant
- 16 Secretary shall record and maintain, in the database of
- 17 U.S. Immigration and Customs Enforcement relating to
- 18 detained aliens, the following information with respect to
- 19 each alien detained pursuant to the Immigration and Na-
- 20 tionality Act (8 U.S.C. 1101 et seq.):
- 21 (1) The provision of law that provides specific
- authority for the alien's detention and the beginning
- and end dates of the alien's detention pursuant to
- that authority. If the alien's detention is authorized
- 25 by different provisions of law during different peri-

- ods of time, the Assistant Secretary shall record and maintain the provision of law that provides authority for the alien's detention during each such period.
 - (2) The place where the alien was apprehended or where U.S. Immigration and Customs Enforcement assumed custody of the alien.
 - (3) Each location where U.S. Immigration and Customs Enforcement detains the alien until the alien is released from custody or removed from the United States, including any period of redetention.
 - (4) The gender and age of each detained alien in the custody of U.S. Immigration and Customs Enforcement.
 - (5) The number of days the alien is detained, including the number of days spent in any given detention facility and the total amount of time spent in detention.
 - (6) The immigration charges that are the basis for the alien's removal proceedings.
 - (7) The status of the alien's removal proceedings and each date on which those proceedings progress from 1 stage of proceeding to another.
 - (8) The length of time the alien was detained following a final administrative order of removal and the reasons for the continued detention.

1	(9) The initial custody determination or review
2	made by U.S. Immigration and Customs Enforce-
3	ment, including whether the alien received notice of
4	a custody determination or review and when the cus-
5	tody determination or review took place.
6	(10) The risk assessment results for the alien,
7	including if the alien is subject to mandatory cus-
8	tody or detention.
9	(11) The reason for the alien's release from de-
10	tention and the conditions of release imposed on the
11	alien, if applicable.
12	(c) Maintenance of Information by Executive
13	OFFICE OF IMMIGRATION REVIEW.—The Director of the
14	Executive Office of Immigration Review shall record and
15	maintain, in the database of the Executive Office of Immi-
16	gration Review relating to detained aliens in removal pro-
17	ceedings, the following information with respect to each
18	such alien:
19	(1) The immigration charges that are the basis
20	for the alien's removal proceedings, including any re-
21	vision of the immigration charges and the date of
22	each such revision.

(2) The gender and age of the alien.

1	(3) The status of the alien's removal pro-
2	ceedings and each date on which those proceedings
3	progress from one stage of proceeding to another.
4	(4) The statutory basis for any bond hearing
5	conducted and the outcomes of the bond hearing.
6	(5) Whether each court hearing is conducted in
7	person, by audio link, or by video conferencing.
8	(6) The date of each attorney entry of appear-
9	ance before an immigration judge using Form
10	EOIR-28 and the scope of the appearance to which
11	the form related.
12	(d) Maintenance of Information by U.S. Cus-
13	TOMS AND BORDER PROTECTION.—The Commissioner
14	shall record and maintain in the database of U.S. Customs
15	and Border Protection relating to detained aliens the fol-
16	lowing information with respect to each alien detained
17	pursuant to the Immigration and Nationality Act (8
18	U.S.C. 1101 et seq.):
19	(1) The provision of law that provides specific
20	authority for the alien's detention and the beginning
21	and end dates of the alien's detention.
22	(2) The place where the alien was apprehended.
23	(3) The gender and age of the alien.
24	(4) Each location where U.S. Customs and Bor-
25	der Protection detains the alien until the alien is re-

- leased from custody or removed from the United
 States, including any period of redetention.
 - (5) The number of days that the alien is detained in the custody of U.S. Customs and Border Protection.
 - (6) The immigration charges that are the basis for the alien's removal proceedings while the alien is in the custody of U.S. Customs and Border Protection.
 - (7) The initial custody determination by U.S. Customs and Border Protection, including whether the alien received notice of a custody determination or review, when the custody determination or review took place, and whether U.S. Customs and Border Protection offered the option of stipulated removal to a detained alien.
 - (8) The reason for the alien's release from detention and the conditions of release to detention imposed on the alien, if applicable.

20 (e) Reporting Requirements.—

(1) Periodic Reports.—The Assistant Secretary, the Director of the Executive Office of Immigration Review, and the Commissioner shall periodically, but not less frequently than annually, submit to Congress a report containing a summary of the

1	information required to be maintained by this sec-
2	tion. Each such report shall include summaries of
3	national-level data as well as summaries of the infor-
4	mation required by this section by State and county.
5	(2) Other Reports.—The Assistant Secretary
6	shall report to Congress not less frequently than an-
7	nually on—
8	(A) the number of aliens detained for more
9	than 3 months, 6 months, 1 year, and 2 years;
10	and
11	(B) the average period of detention before
12	receipt of a final administrative order of re-
13	moval and after receipt of such an order.
14	(3) AVAILABILITY TO PUBLIC.—The reports re-
15	quired under this subsection and the information for
16	each alien on which the reports are based shall be
17	made available to the public without the need to sub-
18	mit a request under section 552 of title 5, United
19	States Code (commonly referred to as the "Freedom
20	of Information Act").
21	(4) Privacy protections.—No alien's identity
22	may be disclosed when information described in
23	paragraph (3) is made publicly available.
24	(f) Definitions.—In this section:

- (1) Case outcome.—The term "case outcome" includes a grant of relief from deportation under section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b), voluntary departure pursuant to section 240B of that Act (8 U.S.C. 1229c), re-moval pursuant to section 238 of that Act (8 U.S.C. 1228), judicial termination of proceedings, termi-nation of proceedings by U.S. Immigration and Cus-toms Enforcement, cancellation of the notice to ap-pear, or permission to withdraw application for ad-mission without any removal order being issued.
 - (2) Place where the alien was apprehended" refers to the city, county, and State where an alien is apprehended.
 - (3) REASON FOR THE ALIEN'S RELEASE FROM DETENTION.—The term "reason for the alien's release from detention" refers to release on bond, on an alien's own recognizance, on humanitarian grounds, after grant of relief, or due to termination of proceedings or removal.
 - (4) Removal proceedings.—The term "removal proceedings" refers to a removal case of any kind, including expedited removal, administrative removal, stipulated removal, reinstatement, and vol-

1	untary removal and removals in which an applicant
2	is permitted to withdraw his or her application for
3	admission.
4	(5) STAGE.—The term "stage", with respect to
5	a proceeding, refers to whether the alien is in pro-
6	ceedings before an immigration judge, the Board of
7	Immigration Appeals, a United States court of ap-
8	peals, or on remand from a United States court of
9	appeals.
10	SEC. 3721. POWERS OF IMMIGRATION OFFICERS AND EM-
11	PLOYEES AT SENSITIVE LOCATIONS.
12	Section 287 (8 U.S.C. 1357) is amended by adding
13	at the end the following:
14	"(i)(1) In order to ensure individuals' access to sen-
15	sitive locations, this subsection applies to enforcement ac-
16	tions by officers and agents of U.S. Immigration and Cus-
17	toms Enforcement and officers and agents of U.S. Cus-
18	toms and Border Protection.
19	"(2)(A) An enforcement action may not take place
20	at, or be focused on, a sensitive location, except as follows:
21	"(i) Under exigent circumstances.
22	"(ii) If prior approval is obtained.
23	"(B) If an enforcement action is taking place pursu-

- 1 enforcement action ceases, the enforcement action shall
- 2 cease.
- 3 "(3)(A) When proceeding with an enforcement action
- 4 at or near a sensitive location, officers and agents referred
- 5 to in paragraph (1) shall conduct themselves as discreetly
- 6 as possible, consistent with officer and public safety, and
- 7 make every effort to limit the time at or focused on the
- 8 sensitive location.
- 9 "(B) If, in the course of an enforcement action that
- 10 is not initiated at or focused on a sensitive location, offi-
- 11 cers or agents are led to or near a sensitive location, and
- 12 no exigent circumstance exists, such officers or agents
- 13 shall conduct themselves in a discreet manner, maintain
- 14 surveillance, and immediately consult their supervisor be-
- 15 fore taking any further enforcement action, in order to
- 16 determine whether such action should be discontinued.
- 17 "(C) This section not apply to the transportation of
- 18 an individual apprehended at or near a land or sea border
- 19 to a hospital or healthcare provider for the purpose of pro-
- 20 viding such individual medical care.
- 21 "(4)(A) Each official specified in subparagraph (B)
- 22 shall ensure that the employees under the supervision of
- 23 such official receive annual training on compliance with
- 24 the requirements of this subsection in enforcement actions
- 25 at or focused on sensitive locations and enforcement ac-

1	tions that lead officers or agents to or near a sensitive
2	location.
3	"(B) The officials specified in the subparagraph are
4	the following:
5	"(i) The Chief Counsel of U.S. Immigration
6	and Customs Enforcement.
7	"(ii) The Field Office Directors of U.S. Immi-
8	gration and Customs Enforcement.
9	"(iii) Each Special Agent in Charge of U.S. Im-
10	migration and Customs Enforcement.
11	"(iv) Each Chief Patrol Agent of U.S. Customs
12	and Border Protection.
13	"(v) The Director of Field Operations of U.S.
14	Customs and Border Protection.
15	"(vi) The Director of Air and Marine Oper-
16	ations of U.S. Customs and Border Protection.
17	"(vii) The Internal Affairs Special Agent in
18	Charge of U.S. Customs and Border Protection.
19	"(5)(A) The Director of U.S. Immigration and Cus-
20	toms Enforcement and the Commissioner of U.S. Customs
21	and Border Protection shall each submit to the appro-
22	priate committees of Congress each year a report on the
23	enforcement actions undertaken by U.S. Immigration and

24 Customs Enforcement and U.S. Customs and Border Pro-

1	tection, respectively, during the preceding year that were
2	covered by this subsection.
3	"(B) Each report on an agency for a year under this
4	paragraph shall set forth the following:
5	"(i) The number of enforcement actions at or
6	focused on a sensitive location.
7	"(ii) The number of enforcement actions where
8	officers or agents were subsequently led to or near
9	a sensitive location.
10	"(iii) The date, site, and State, city, and county
11	in which each enforcement action covered by clause
12	(i) or (ii) occurred.
13	"(iv) The component of the agency responsible
14	for each such enforcement action.
15	"(v) A description of the intended target of
16	each such enforcement action.
17	"(vi) The number of individuals, if any, ar-
18	rested or taken into custody through each such en-
19	forcement action.
20	"(vii) The number of collateral arrests, if any
21	from each such enforcement action and the reasons
22	for each such arrest.
23	"(viii) A certification of whether the location
24	administrator was contacted prior to, during, or
25	after each such enforcement action.

1	"(C) Each report under this paragraph shall be made
2	available to the public without the need to submit a re-
3	quest under section 552 of title 5, United States Code
4	(commonly referred to as the 'Freedom of Information
5	Act').
6	"(6) In this subsection:
7	"(A) The term 'appropriate committees of Con-
8	gress' means—
9	"(i) the Committee on Homeland Security
10	and Governmental Affairs of the Senate;
11	"(ii) the Committee on the Judiciary of the
12	Senate;
13	"(iii) the Committee on Homeland Security
14	of the House of Representatives; and
15	"(iv) the Committee on the Judiciary of
16	the House of Representatives.
17	"(B) The term 'enforcement action' means an
18	arrest, interview, search, or surveillance for the pur-
19	poses of immigration enforcement, and includes an
20	enforcement action at, or focused on, a sensitive lo-
21	cation that is part of a joint case led by another law
22	enforcement agency.
23	"(C) The term 'exigent circumstances' means a
24	situation involving the following:

1	"(i) The imminent risk of death, violence,
2	or physical harm to any person, including a sit-
3	uation implicating terrorism or the national se-
4	curity of the United States in some other man-
5	ner.
6	"(ii) The immediate arrest or pursuit of a
7	dangerous felon, terrorist suspect, or other indi-
8	vidual presenting an imminent danger or public
9	safety risk.
10	"(iii) The imminent risk of destruction of
11	evidence that is material to an ongoing criminal
12	case.
13	"(D) The term 'prior approval' means the fol-
14	lowing:
15	"(i) In the case of officers and agents of
16	U.S. Immigration and Customs Enforcement,
17	prior written approval for a specific, targeted
18	operation from one of the following officials:
19	"(I) The Assistant Director of Oper-
20	ations, Homeland Security Investigations.
21	"(II) The Executive Associate Direc-
22	tor of Homeland Security Investigations.
23	"(III) The Assistant Director for
24	Field Operations, Enforcement, and Re-
25	moval Operations.

1	"(IV) The Executive Associate Direc-
2	tor for Field Operations, Enforcement, and
3	Removal Operations.
4	"(ii) In the case of officers and agents of
5	U.S. Customs and Border Protection, prior
6	written approval for a specific, targeted oper-
7	ation from one of the following officials:
8	"(I) A Chief Patrol Agent.
9	"(II) The Director of Field Oper-
10	ations.
11	"(III) The Director of Air and Marine
12	Operations.
13	"(IV) The Internal Affairs Special
14	Agent in Charge.
15	"(E) The term 'sensitive location' includes the
16	following:
17	"(i) Hospitals and health clinics.
18	"(ii) Public and private schools (including
19	pre-schools, primary schools, secondary schools,
20	postsecondary schools (including colleges and
21	universities), and other institutions of learning
22	such as vocational or trade schools).
23	"(iii) Organizations assisting children,
24	pregnant women, victims of crime or abuse, or
25	individuals with mental or physical disabilities.

1	"(iv) Churches, synagogues, mosques, and
2	other places of worship, such as buildings
3	rented for the purpose of religious services.
4	"(v) Such other locations as the Secretary
5	of Homeland Security shall specify for purposes
6	of this subsection.".
7	Subtitle H—Protection of Children
8	Affected by Immigration En-
9	forcement
10	SEC. 3801. SHORT TITLE.
11	This subtitle may be cited as the "Humane Enforce-
12	ment and Legal Protections for Separated Children Act"
13	or the "HELP Separated Children Act".
14	SEC. 3802. DEFINITIONS.
15	In this subtitle:
16	(1) Apprehension.—The term "apprehension"
17	means the detention or arrest by officials of the De-
18	partment or cooperating entities.
19	(2) Child.—The term "child" means an indi-
20	vidual who has not attained 18 years of age.
21	(3) CHILD WELFARE AGENCY.—The term
22	"child welfare agency" means a State or local agen-
23	cy responsible for child welfare services under sub-
24	titles B and E of title IV of the Social Security Act
25	(42 U.S.C. 601 et sea.).

- 1 (4) COOPERATING ENTITY.—The term "cooper-2 ating entity" means a State or local entity acting 3 under agreement with the Secretary.
 - (5) DETENTION FACILITY.—The term "detention facility" means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Director.
 - (6) Immigration enforcement action.—The term "immigration enforcement action" means the apprehension of 1 or more individuals whom the Department has reason to believe are removable from the United States by the Secretary or a cooperating entity.
 - (7) PARENT.—The term "parent" means a biological or adoptive parent of a child, whose parental rights have not been relinquished or terminated under State law or the law of a foreign country, or a legal guardian under State law or the law of a foreign country.

1	SEC. 3803. APPREHENSION PROCEDURES FOR IMMIGRA-
2	TION ENFORCEMENT-RELATED ACTIVITIES.
3	(a) Apprehension Procedures.—In any immigra-
4	tion enforcement action, the Secretary and cooperating en-
5	tities shall—
6	(1) as soon as possible, but generally not later
7	than 2 hours after an immigration enforcement ac-
8	tion, inquire whether an individual is a parent or
9	primary caregiver of a child in the United States
10	and provide any such individuals with—
11	(A) the opportunity to make a minimum of
12	2 telephone calls to arrange for the care of such
13	child in the individual's absence; and
14	(B) contact information for—
15	(i) child welfare agencies and family
16	courts in the same jurisdiction as the child;
17	and
18	(ii) consulates, attorneys, and legal
19	service providers capable of providing free
20	legal advice or representation regarding
21	child welfare, child custody determinations,
22	and immigration matters;
23	(2) notify the child welfare agency with jurisdic-
24	tion over the child if the child's parent or primary
25	caregiver is unable to make care arrangements for

1	the child or if the child is in imminent risk of seri-
2	ous harm;
3	(3) ensure that personnel of the Department
4	and cooperating entities do not, absent medical ne-
5	cessity or extraordinary circumstances, compel or re-
6	quest children to interpret or translate for interviews
7	of their parents or of other individuals who are en-
8	countered as part of an immigration enforcement ac-
9	tion; and
10	(4) ensure that any parent or primary caregiver
11	of a child in the United States—
12	(A) absent medical necessity or extraor-
13	dinary circumstances, is not transferred from
14	his or her area of apprehension until the indi-
15	vidual—
16	(i) has made arrangements for the
17	care of such child; or
18	(ii) if such arrangements are unavail-
19	able or the individual is unable to make
20	such arrangements, is informed of the care
21	arrangements made for the child and of a
22	means to maintain communication with the
23	child;

1	(B) absent medical necessity or extraor-
2	dinary circumstances, and to the extent prac-
3	ticable, is placed in a detention facility either—
4	(i) proximate to the location of appre-
5	hension; or
6	(ii) proximate to the individual's ha-
7	bitual place of residence; and
8	(C) receives due consideration of the best
9	interests of such child in any decision or action
10	relating to his or her detention, release, or
11	transfer between detention facilities.
12	(b) Requests to State and Local Entities.—
13	If the Secretary requests a State or local entity to hold
14	in custody an individual whom the Department has reason
15	to believe is removable pending transfer of that individual
16	to the custody of the Secretary or to a detention facility,
17	the Secretary shall also request that the State or local en-
18	tity provide the individual the protections specified in
19	paragraphs (1) and (2) of subsection (a), if that individual
20	is found to be the parent or primary caregiver of a child
21	in the United States.
22	(e) Protections Against Trafficking Pre-
23	SERVED.—The provisions of this section shall not be con-
24	strued to impede, delay, or in any way limit the obligations
25	of the Secretary, the Attorney General, or the Secretary

1	of Health and Human Services under section 235 of the
2	William Wilberforce Trafficking Victims Protection Reau
3	thorization Act of 2008 (8 U.S.C. 1232) or section 462
4	of the Homeland Security Act of 2002 (6 U.S.C. 279)
5	SEC. 3804. ACCESS TO CHILDREN, STATE AND LOCAL
6	COURTS, CHILD WELFARE AGENCIES, AND
7	CONSULAR OFFICIALS.
8	At all detention facilities, the Secretary shall—
9	(1) prominently post in a manner accessible to
10	detainees and visitors and include in detainee hand-
11	books information on the protections of this subtitle
12	as well as information on potential eligibility for particles.
13	role or release;
14	(2) absent extraordinary circumstances, ensure
15	that individuals who are detained by the Departmen
16	and are parents of children in the United States
17	are—
18	(A) permitted regular phone calls and con-
19	tact visits with their children;
20	(B) provided with contact information for
21	child welfare agencies and family courts in the
22	relevant jurisdictions;
23	(C) able to participate fully and, to the ex-
24	tent possible, in person in all family court pro-

1	ceedings and any other proceedings that may
2	impact their right to custody of their children;
3	(D) granted free and confidential telephone
4	calls to relevant child welfare agencies and fam-
5	ily courts as often as is necessary to ensure
6	that the best interest of their children, includ-
7	ing a preference for family unity whenever ap-
8	propriate, can be considered in child welfare
9	agency or family court proceedings;
10	(E) able to fully comply with all family
11	court or child welfare agency orders impacting
12	custody of their children;
13	(F) provided access to United States pass-
14	port applications or other relevant travel docu-
15	ment applications for the purpose of obtaining
16	travel documents for their children;
17	(G) afforded timely access to a notary pub-
18	lic for the purpose of applying for a passport
19	for their children or executing guardianship or
20	other agreements to ensure the safety of their
21	children; and
22	(H) granted adequate time before removal
23	to obtain passports, apostilled birth certificates,
24	travel documents, and other necessary records
25	on behalf of their children if such children will

1	accompany them on their return to their coun-
2	try of origin or join them in their country of or-
3	igin: and

(3) where doing so would not impact public safety or national security, facilitate the ability of detained alien parents and primary caregivers to share information regarding travel arrangements with their consulate, children, child welfare agencies, or other caregivers in advance of the detained alien individual's departure from the United States.

11 SEC. 3805. MANDATORY TRAINING.

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12 The Secretary, in consultation with the Secretary of Health and Human Services, the Secretary of State, the Attorney General, and independent child welfare and family law experts, shall develop and provide training on the protections required under sections 3803 and 3804 to all 17 personnel of the Department, cooperating entities, and de-18 tention facilities operated by or under agreement with the 19 Department who regularly engage in immigration enforcement actions and in the course of such actions come into 20 21 contact with individuals who are parents or primary caregivers of children in the United States.

SEC. 3806. RULEMAKING.

- 2 Not later than 180 days after the date of the enact-
- 3 ment of this Act, the Secretary shall promulgate regula-
- 4 tions to implement sections 3803 and 3804 of this Act.
- 5 SEC. 3807. SEVERABILITY.
- 6 If any provision of this subtitle or amendment made
- 7 by this subtitle, or the application of a provision or amend-
- 8 ment to any person or circumstance, is held to be uncon-
- 9 stitutional, the remainder of this subtitle and amendments
- 10 made by this subtitle, and the application of the provisions
- 11 and amendment to any person or circumstance, shall not
- 12 be affected by the holding.
- 13 Subtitle I—Providing Tools To Ex-
- 14 change Visitors and Exchange
- Visitor Sponsors To Protect Ex-
- change Visitor Program Partici-
- pants and Prevent Trafficking
- 18 SEC. 3901. DEFINITIONS.
- 19 (a) In General.—Except as otherwise provided by
- 20 this subtitle, the terms used in this subtitle shall have the
- 21 same meanings, respectively, as are given those terms in
- 22 section 3 of the Fair Labor Standards Act of 1938 (29
- 23 U.S.C. 203), except that the term "employer" shall also
- 24 include a prospective employer seeking to hire exchange
- 25 visitors with which the sponsor has a contractual relation-
- 26 ship.

(b) Other Definitions.—

- (1) EXCHANGE VISITOR.—The term "exchange visitor" means a foreign national who is inquiring about or applying to participate in the exchange visitor program or who has successfully applied and has completed or is completing an exchange visitor programs not funded by the United States Government as governed by sections 2.22, 62.24, 62.30, 62.31, and 62.32 of title 22, Code of Federal Regulations.
 - (2) EXCHANGE VISITOR PROGRAM.—The term "exchange visitor program" means the international exchange program administered by the Department of State to implement the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), by means of educational and cultural programs.
 - (3) EXCHANGE VISITOR PROGRAM RECRUIT-MENT ACTIVITIES.—The term "exchange visitor program recruitment activities" means activities related to recruiting, soliciting, transferring, providing, obtaining, or facilitating participation of individuals who reside outside the United States in an exchange visitor program including when such activity occurs wholly outside the United States.

- 1 (4) EXCHANGE VISITOR PROGRAM SPONSOR; 2 SPONSOR.—The term "exchange visitor program 3 sponsor" or "sponsor" means a legal entity des-4 ignated by the Secretary of State, in the Secretary's 5 discretion, to conduct an exchange visitor program 6 governed by sections 62.22, 62.24, 62.30, 62.31, and 7 62.32 of title 22, Code of Federal Regulations).
 - (5) FOREIGN ENTITY.—The term "foreign entity" means a person contracted by a sponsor to engage in exchange visitor program recruitment activities on the sponsor's behalf and any subcontractors thereof.
 - (6) Host entity.—The term "host entity" means "host organization", "primary or secondary accredited educational institution", "camp facility", "host family", or "employer/host employer" as used in sections 62.22, 62.24, 62.30, 62.31, and 62.32 of title 22, Code of Federal Regulations, respectively.
 - (7) Regulations.—Any reference to any provision of regulations shall include any successor provision addressing the same subject matter.

22 SEC. 3902. DISCLOSURE.

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23 (a) REQUIREMENT FOR DISCLOSURE AT TIME OF 24 EXCHANGE VISITOR PROGRAM RECRUITMENT ACTIV-25 ITY.—Any person who engages in exchange visitor pro-

- 1 gram recruitment activity shall develop certain informa-
- 2 tion, previously approved by and on file with the exchange
- 3 visitor program sponsor, to be disclosed in writing in
- 4 English to the exchange visitor before the exchange visitor
- 5 pays fees described in section 3904, other than refundable
- 6 fees and a reasonable non-refundable deposit, or otherwise
- 7 detrimentally relies on information provided by an ex-
- 8 change program sponsor or foreign entity. This informa-
- 9 tion shall be made available to the Secretary of State, or
- 10 an exchange visitor requesting his or her own file, within
- 11 5 business days of request, consistent with program regu-
- 12 lations in part 62 of title 22, Code of Federal Regulations.
- 13 Not later than 18 months after the date of the enactment
- 14 of this Act, the Secretary of State shall, in consultation
- 15 with the Secretary of Labor, amend such regulations to
- 16 reflect the information to be disclosed, including the fol-
- 17 lowing:
- 18 (1) The identity and address of the exchange
- visitor program sponsor, host entity, and any foreign
- 20 entity with authority to charge fees and costs under
- 21 section 3904.
- 22 (2) All assurances and terms and conditions of
- employment, from the prospective host entity of the
- exchange visitor, including place and period of em-
- 25 ployment, job duties, number of work hours, wages

- and compensation, and any deductions from wages and benefits, including deductions for housing and transportation. Nothing in this paragraph shall be construed to permit any charge, deduction, or expense prohibited by this or any other law.
 - (3) A copy of the prospective agreement between the exchange visitor program sponsor, exchange visitor, and the host entity.
 - (4) Information regarding the terms and conditions of the nonimmigrant status under which the exchange visitor is to be admitted, and the period of stay in the United States allowed for such non-immigrant status.
 - (5) A copy of the fee disclosure form as described in section 3904(d) listing the mandatory and optional costs or expenses to be charged to the exchange visitor.
 - (6) The existence of any labor organizing effort, collective bargaining agreement, labor contract, strike, lockout, or other labor dispute at the host entity.
 - (7) Whether and the extent to which exchange visitors will be compensated through workers' compensation, private insurance, or otherwise for inju-

1	ries or death, including work-related injuries and
2	death, during the period of employment.
3	(8) A description of the sanctions the exchange
4	visitor program sponsor is currently subject to, if
5	any, as imposed by the Department of State.
6	(9) A statement in a form specified by the Sec-
7	retary of State—
8	(A) stating that in accordance with guide-
9	lines and regulations promulgated by the Sec-
10	retary —
11	(i) the costs and fees charged by the
12	exchange program sponsor, foreign entity,
13	and host entity do not exceed those per-
14	mitted by section 3904 and are legal under
15	the laws of the United States and the
16	home country of the exchange visitor; and
17	(ii) the exchange visitor program
18	sponsor, foreign entity, or host entity may
19	bear costs or fees not provided for in sec-
20	tion 3904, but that fees under that section
21	cannot be passed along to the exchange
22	visitor.
23	(10) Any education or training to be provided
24	or required, other than education or training pro-
25	vided in accordance with section 62.10 (b) and (c)

of title 22, Code of Federal Regulations, as "pre-arrival information" or "orientation" and additional orientation and training requirements as described in each relevant category under sections 62.22, 62.24, 62.30, 62.31, and 62.32 of that title.

(11) A clear statement explaining that—

(A) except as provided in subparagraph (B), no additional significant requirements or significant changes may be made to the original contract signed with a handwritten, electronic, or digital pin code signature by the exchange visitor without at least 24 hours to consider such changes and the specific consent of the exchange visitor, obtained voluntarily and without threat of penalty; and

(B) changes may be made to the conditions of employment contained in the original contract even if the exchange visitor has not had 24 hours to consider such changes, provided the exchange visitor has specifically consented to the changes, voluntarily and without threat of penalty, and such changes must be implemented without giving the exchange visitor 24 hours to consider them in order to protect the health or welfare of the exchange visitor.

- 1 (b) REQUIREMENT FOR RULES.—The Secretary of
- 2 State shall define by rule or guidance what constitutes
- 3 "refundable fees" and a "reasonable non-refundable de-
- 4 posit" for the purpose subsection (a).
- 5 (c) Relationship to Labor and Employment
- 6 Laws.—Nothing in the disclosure required by subsection
- 7 (a) shall constitute a legal conclusion as to the exchange
- 8 visitor's status or rights under the labor and employment
- 9 laws.
- 10 (d) Prohibition on False and Misleading In-
- 11 FORMATION AND CERTAIN FEES.—No exchange visitor
- 12 program sponsor, foreign entity, or host entity who en-
- 13 gages in any exchange visitor program activity shall know-
- 14 ingly provide materially false or misleading information to
- 15 any exchange visitor concerning any matter required to
- 16 be disclosed under subsection (a). Charging fees for serv-
- 17 ices not provided or assessing fees that exceed the
- 18 amounts established by the Secretary of State pursuant
- 19 to section 3904 is a violation of this section. The disclo-
- 20 sure required by this section is a document concerning the
- 21 proper administration of a matter within the jurisdiction
- 22 of a department or agency of the United States for the
- 23 purposes of section 1519 of title 18, United States Code,
- 24 and other provisions of such title.

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1	(e) Public Availability of Information.—The
2	Secretary of State shall amend its regulations at part 62
3	of title 22, Code of Federal Regulations, to require spon
4	sors to make publicly available, including on their websites
5	and in recruiting materials, information regarding fees
6	costs, and services associated with their exchange visitor
7	programs, including foreign entity names and contact
8	points, and other factors relevant to exchange visitors
9	choice of sponsor or foreign entity.
10	SEC. 3903. PROHIBITION ON DISCRIMINATION.
11	(a) In General.—It shall be unlawful for an ex
12	change visitor program sponsor, foreign entity, or host en
13	tity to fail or refuse to select, hire, discharge, intimidate
14	threaten, restrain, coerce, or blacklist any individual or
15	otherwise discriminate against an individual with respec
16	to compensation, terms, conditions, or privileges of em

19 (b) DETERMINATIONS OF DISCRIMINATION.—For the

sex, national origin, religion, age, or disability.

ployment, because of such individual's race, color, creed,

- 20 purposes of determining the existence of unlawful dis-
- 21 crimination under subsection (a)—
- 22 (1) in the case of a claim of discrimination
- based on race, color, sex, national origin, or religion,
- the same legal standards shall apply as are applica-

- ble under title VII of the Civil Rights Act of 1964
 (42 U.S.C. 2000e et seq.);
- 3 (2) in the case of a claim of discrimination 4 based on age, the same legal standards shall apply 5 as are applicable under the Age Discrimination in 6 Employment Act of 1967 (29 U.S.C. 621 et seq.);
- 7 and
- 8 (3) in the case of a claim of discrimination 9 based on disability, the same legal standards shall 10 apply as are applicable under title I of the Ameri-11 cans With Disabilities Act of 1990 as amended (42 12 U.S.C. 12111 et seq.).
- 13 SEC. 3904. FEES.
- 14 (a) IN GENERAL.—Not later than 2 years after the
- 15 date of the enactment of this Act, the Secretary of State,
- 16 in consultation with the Secretary of Labor, shall promul-
- 17 gate regulations to set limits on the mandatory fees
- 18 charged by exchange visitor program sponsors, host enti-
- 19 ties, and their foreign entities to the exchange visitor. In
- 20 promulgating such regulations, the Secretary of State
- 21 shall conduct public meetings with exchange visitor pro-
- 22 gram sponsors, organizations representing exchange visi-
- 23 tors, and members of the public with expertise in public
- 24 diplomacy, educational and cultural exchange, labor mar-
- 25 kets, labor relations, migration, civil rights, human rights,

- 1 and prohibiting human trafficking. The Secretary of State
- 2 may, in the Secretary's discretion, consider factors includ-
- 3 ing what costs are within the control of sponsors, dif-
- 4 ferences among programs and countries, level and amount
- 5 of educational and cultural activities included, and services
- 6 rendered.
- 7 (b) Maximum Fees.—It shall be unlawful for any
- 8 person to charge a fee higher than the maximum allowable
- 9 fee as established by regulations promulgated under sub-
- 10 section (a), and any person who charges a higher fee shall
- 11 be liable under this subtitle. If a fee higher than the max-
- 12 imum is charged by a sponsor or foreign entity, the spon-
- 13 sor shall be liable. If a fee higher than the maximum allow-
- 14 able is charged by the host entity or a host entity's agent,
- 15 the host entity shall be liable.
- 16 (c) UPDATE OF MAXIMUM FEES.—The Secretary of
- 17 State shall update the maximum allowable fees described
- 18 in subsection (a) in response to changing economic condi-
- 19 tions and other factors as needed.
- 20 (d) Fee Transparency.—The Secretary of State
- 21 shall amend its regulations at part 62 of title 22, Code
- 22 of Federal Regulations, to require exchange visitor pro-
- 23 gram sponsors to—
- 24 (1) provide the Department of State annually
- 25 with an itemized list of fees charged to exchange vis-

- itor program participants including by their foreign
 entities, subcontractors, or foreign entity's agents;
 and
- 4 (2) require a 3-party document signed by the 5 exchange visitor, foreign entity, and sponsor that 6 outlines a basic level fee structure and itemizes man-7 datory and optional fees.

8 SEC. 3905. ANNUAL NOTIFICATION.

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- 9 (a) Annual Exchange Visitor Program Sponsor 10 Notification.—
 - (1) In GENERAL.—Subject to paragraph (2), prior to engaging in any exchange visitor program activity, any person who seeks to be an exchange visitor program sponsor shall be designated by the Secretary of State pursuant to regulations that the Secretary of State has prescribed or shall prescribe after the date of the enactment of this Act.
 - (2) Notification.—Each exchange visitor program sponsor shall notify the Secretary of State, not less frequently than once every year, of the identity of any third party, agent, or exchange visitor program sponsor employee involved in any exchange visitor program recruitment activity for, or on behalf of, the exchange visitor program sponsor.

1 (3) Personal jurisdiction over foreign 2 ENTITIES.—As a condition of initial and continued 3 registration, each program sponsor shall obtain a 4 written and signed agreement from any foreign enti-5 ty. In that agreement, the foreign entity shall stipu-6 late and agree, as a condition for receiving any pay-7 ment or compensation for performing any work or 8 service for the program sponsor, that the laws of the 9 United States shall govern any and all disputes 10 among and between the parties or the United States, 11 including any enforcement actions, and that any dis-12 pute or enforcement action shall be brought in the 13 United States District Court for the District of Co-14 lumbia. The agreement shall be in such form and 15 contain such other information as the Secretary of 16 State shall prescribe.

- (4) Noncompliance Notification.—An host entity shall notify the Secretary of State upon gaining knowledge of noncompliance with this subtitle by an exchange visitor program sponsor. An exchange visitor program sponsor shall notify the Secretary of State upon gaining knowledge of noncompliance with this subtitle by a host entity or foreign entity.
- 24 (b) REGULATIONS.—Not later than 180 days after 25 the date of the enactment of this Act, the Secretary of

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- 1 State shall amend its regulations at part 62 of title 22,
- 2 Code of Federal Regulations, regarding the annual ex-
- 3 change visitor program sponsor notification.
- 4 (c) Refusal To Issue and Revocation of Des-
- 5 IGNATION.—The Secretary of State shall amend its regu-
- 6 lations at part 62 of title 22, Code of Federal Regulations,
- 7 to include the following bases for refusing to issue or
- 8 renew, or for revoking a sponsor's designation for a period
- 9 of not greater than 5 years:
- 10 (1) The applicant for, or holder of, the designa-11 tion has knowingly made a material misrepresenta-
- tion in the application for such designation.
- 13 (2) The applicant for, or holder of, the designa-
- tion has committed any felony under State or Fed-
- eral law or any crime involving fraud, robbery, brib-
- ery, extortion, embezzlement, grand larceny, bur-
- 17 glary, arson, violation of narcotics laws, murder,
- 18 rape, trafficking in persons, assault with intent to
- 19 kill, assault which inflicts grievous bodily injury,
- prostitution, peonage, or smuggling or harboring in-
- 21 dividuals who have entered the United States ille-
- gally.
- 23 (3) The applicant for, or holder of, the designa-
- 24 tion has committed any crime relating to gambling,
- or to the sale, distribution, or possession of alcoholic

- 1 beverages, in connection with or incident to any ex-
- 2 change visitor recruitment activities.
- 3 (4) Such other criteria as the Secretary of State
- 4 may, in the Secretary's discretion, establish.

5 SEC. 3906. BONDING REQUIREMENT.

- 6 (a) In General.—The Secretary of State may as-
- 7 sess a bond amount sufficient to ensure the ability of a
- 8 sponsor to discharge its responsibilities and to ensure pro-
- 9 tection of exchange visitors, including wages or stipends.
- 10 In requiring a sponsor to post the bond, the Secretary of
- 11 State shall take into account the degree to which the spon-
- 12 sor's assets can be reached by United States courts.
- 13 (b) Regulations.—The Secretary of State, by regu-
- 14 lation, shall establish the conditions under which the bond
- 15 amount is determined, paid, and forfeited, which shall in-
- 16 clude the sponsor's history of compliance.
- 17 (c) Relationship to Other Remedies.—The bond
- 18 requirements and forfeiture of the bond under this section
- 19 shall be in addition to or, pursuant to court order, in con-
- 20 junction with, other remedies under 3910 or any other
- 21 provision of law.
- 22 SEC. 3907. MAINTENANCE OF LISTS.
- 23 (a) In General.—The Secretary of State shall work
- 24 with the Secretary of Homeland Security to ensure that
- 25 the information described in paragraphs (1) through (4)

- 1 of subsection (b) is included on the foreign entity list kept
- 2 and updated pursuant to section 3607 and shall share that
- 3 list with the Department of Labor.
- 4 (b) Information.—Not later than 1 year after the
- 5 date of the enactment of this Act, each sponsor shall com-
- 6 pile and share with the Secretary of State on a regular
- 7 basis a list that includes the following information:
- 8 (1) The countries from which the sponsor re-
- 9 cruits.
- 10 (2) The host entities for whom the sponsor re-
- 11 cruits.
- 12 (3) The occupations for which the sponsor re-
- cruits.
- 14 (4) The States where recruited exchange visi-
- tors are employed.
- 16 (c) Limitation on Public Availability.—Neither
- 17 the Secretary of State nor the Secretary of Homeland Se-
- 18 curity shall make the information described in paragraphs
- 19 (1) through (4) of subsection (b) public as part of the list
- 20 described in section 3607.
- 21 SEC. 3908. AMENDMENT TO THE IMMIGRATION AND NA-
- 22 TIONALITY ACT.
- Section 214 (8 U.S.C. 1184), as amended by title IV,
- 24 is further amended by adding at the end the following:

- 1 "(bb) A visa shall not be issued under section
- 2 101(a)(15) until the consular officer—
- 3 "(1) has confirmed that the applicant has re-
- 4 ceived, read, and understood the information and re-
- 5 sources pamphlet required by section 202 of the Wil-
- 6 liam Wilberforce Trafficking Victims Protection Re-
- 7 authorization Act of 2008 (8 U.S.C. 1375b); and
- 8 "(2) has reviewed and made a part of the visa
- 9 file the exchange visitor program sponsor disclosures
- required by section 3902 of the Border Security,
- 11 Economic Opportunity, and Immigration Moderniza-
- tion Act, including whether the exchange visitor pro-
- gram sponsor is designated pursuant to that sec-
- 14 tion.".

15 SEC. 3909. RESPONSIBILITIES OF SECRETARY OF STATE.

- 16 (a) IN GENERAL.—The Secretary of State shall en-
- 17 sure that each United States diplomatic mission has a per-
- 18 son who is responsible for receiving information from any
- 19 exchange visitor who has been subject to violations of this
- 20 subtitle.
- 21 (b) Provision of Information.—The responsible
- 22 person referred to in subsection (a) shall ensure that the
- 23 information received is provided to the Department of
- 24 State. The Department of State may share that informa-
- 25 tion as necessary with the Department of Justice, the De-

- 1 partment of Labor, and any other relevant Federal agen-
- 2 cy.
- 3 (c) MECHANISMS.—The Attorney General and the
- 4 Secretary of State shall ensure that there is a mechanism
- 5 for any actions that need to be taken in response to infor-
- 6 mation received under subsection (a).
- 7 (d) Assistance From Foreign Government.—
- 8 The person designated for receiving information pursuant
- 9 to subsection (a) is strongly encouraged to coordinate with
- 10 governments and civil society organizations in the coun-
- 11 tries of origin to ensure the exchange visitor receives addi-
- 12 tional support.
- (e) Maintenance and Availability of Informa-
- 14 TION.—The Secretary of State shall ensure that con-
- 15 sulates coordinate with the Department of State to have
- 16 access to information regarding the identities of sponsors
- 17 and the foreign entities with whom sponsors contract for
- 18 exchange visitor program recruitment activities. The Sec-
- 19 retary of State shall ensure information on the identity
- 20 of sponsors is publicly available in written form on the
- 21 Department of State website, and information on the iden-
- 22 tity of foreign entities in each individual country is pub-
- 23 licly available on the websites of United States embassies
- 24 in each of those countries.

SEC. 3910. ENFORCEMENT PROVISIONS.

- 2 (a) Investigations.—The Secretary of State shall
- 3 undertake compliance actions and sanctions against ex-
- 4 change visitor program sponsors in accordance with part
- 5 62 of title 22, Code of Federal Regulations.
- 6 (b) Representation.—Except as provided in sec-
- 7 tion 518(a) of title 28, United States Code, the Attorney
- 8 General may appear for and represent the Secretary in
- 9 any civil litigation brought under this paragraph. All such
- 10 litigation shall be subject to the direction and control of
- 11 the Attorney General. Exchange visitor sponsors shall be
- 12 allowed a reasonable period of inquiry and response before
- 13 civil litigation is initiated.
- 14 (c) Enforcement.—The Secretary of State or an
- 15 exchange visitor who is subject to any violation of this sub-
- 16 title may bring a civil action against an exchange visitor
- 17 program sponsor, foreign entity, or host entity in a court
- 18 of competent jurisdiction and recover appropriate relief,
- 19 including injunctive relief, damages, reasonable attorneys'
- 20 fees and costs, and any other remedy that would effectuate
- 21 the purposes of this subtitle. Any action must be filed
- 22 within 3 years after the date on which the exchange visitor
- 23 became aware of the violation, but under no circumstances
- 24 more than 5 years after the date on which the violation
- 25 occurred.

1	(d) ACTIONS BY THE SECRETARY OF STATE OR AN
2	EXCHANGE VISITOR.—If the court finds in a civil action
3	filed under this section that the defendant has violated any
4	provision of this subtitle (or any regulation issued pursu-
5	ant to this subtitle), the court may award damages, up
6	to and including an amount equal to the amount of actual
7	damages, and statutory damages of up to \$1,000 per
8	plaintiff per violation, or other equitable relief, except that
9	with respect to statutory damages—
10	(1) multiple infractions of a single provision of
11	this subtitle (or of a regulation under this subtitle)
12	shall constitute only 1 violation for purposes of sec-
13	tion 3902(a) to determine the amount of statutory
14	damages due a plaintiff; and
15	(2) if such complaint is certified as a class ac-
16	tion the court may award—
17	(A) damages up to an amount equal to the
18	amount of actual damages; and
19	(B) statutory damages of not more than
20	the lesser of up to \$1,000 per class member per
21	violation, or up to \$500,000;
22	(C) other equitable relief;
23	(D) reasonable attorneys' fees and costs;
24	and

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1	(E) such other and further relief, including
2	declaratory and injunctive relief, as necessary to
3	effectuate the purposes of this subtitle.
4	(e) Bond.—To satisfy the damages, fees, and costs
5	found owing under this section, as much of the bond held
6	pursuant to section 3906 shall be released as necessary.
7	(f) APPEAL.—Any civil action brought under this sec-
8	tion shall be subject to appeal as provided in chapter 83
9	of title 28, United States Code.
10	(g) SAFE HARBOR.—A host entity shall not have any
11	liability under this section for the actions or omissions of
12	an exchange visitor program sponsor that has a valid des-
13	ignation with the State Department pursuant to section
14	3905, unless and to the extent that the host entity has
15	engaged in conduct that violates this subtitle.
16	(h) Liability for Foreign Entities.—Exchange
17	visitor program sponsors shall be liable for violations of
18	this subtitle by any foreign employees, agents, foreign en-
19	tities, or subcontractees of any level in relation to the ex-
20	change visitor program recruitment activities of the for-

eign employees, agents, foreign entities, or subcontractees

sponsor had committed the violation, unless the exchange

22 to the same extent as if the exchange visitor program

24 visitor program sponsor—

- 1 uses reasonable procedures to protect 2 against violations of this subtitle by foreign employ-3 ees, agents, foreign entities, or subcontractees (in-4 cluding contractually forbidding in writing any for-5 eign employees, agents, foreign entities, 6 subcontractees from seeking or receiving prohibited 7 fees from workers);
 - (2) does not act with reckless disregard of the fact that foreign employees, agents, foreign entities, or subcontractees have violated any provision of this subtitle; and
- (3) timely reports any potential violations to the
 Secretary of State.
- 14 (i) WAIVER OF RIGHTS.—Agreements between ex-15 change visitors with sponsors, foreign entities, or host en-16 tities purporting to waive or to modify their rights under 17 this subtitle shall be void as contrary to public policy.
- 18 (j) Retaliation.—No person shall intimidate, 19 threaten, restrain, coerce, discharge, or in any other man-20 ner discriminate or retaliate against any exchange visitor 21 or his or her family members (including a former exchange 22 visitor or an applicant for employment) because such ex-23 change visitor disclosed information to any person that the 24 exchange visitor reasonably believes evidences a violation 25 of this section (or any rule or regulation pertaining to this

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- 1 section), including speaking with a worker organization,
- 2 seeking legal assistance of counsel, or cooperating with an
- 3 investigation or other proceeding concerning compliance
- 4 with this section (or any regulation pertaining to this sec-
- 5 tion).
- 6 (k) Prohibition on Retaliation.—It shall be un-
- 7 lawful for an exchange visitor program sponsor or foreign
- 8 entity to terminate or remove from the exchange visitor
- 9 program, ban from the program, adversely annotate an ex-
- 10 change visitor's SEVIS (as defined in section 4902)
- 11 record, fire, demote, take other adverse employment ac-
- 12 tion, or evict, or to threaten to take any of such actions
- 13 against an exchange visitor in retaliation for the act of
- 14 complaining about program conditions, including housing
- 15 and job placements, wages, hours, and general treatment,
- 16 or for disclosing retaliation by an exchange visitor sponsor,
- 17 exchange visitor foreign entity, or host entity against any
- 18 exchange visitor.
- 19 (l) Presence During Pendency of Actions.—If
- 20 other immigration relief is not available to the exchange
- 21 visitor, the Secretary of Homeland Security may permit,
- 22 only on the basis of proof, the exchange visitor to remain
- 23 lawfully in the United States for the time sufficient to
- 24 allow the exchange visitor to fully and effectively partici-

1	pate in all legal proceedings related to any action taken
2	pursuant to this section.
3	(m) Access to Legal Services Corporation.—
4	Notwithstanding any other provision of law, the Legal
5	Services Corporation and recipients of its funding may
6	provide legal assistance on behalf of any alien with respect
7	to any provision of this subtitle.
8	(n) Host Entity Violations.—The Secretary, in
9	consultation with the Secretary of Labor, shall maintain
10	a list of host entities against whom there has been a com-
11	plaint substantiated by the Department of State for sig-
12	nificant program violations. Information from that list
13	shall be made available to sponsors upon request.
14	SEC. 3911. AUDITS AND TRANSPARENCY.
15	(a) Compliance Audits.—
16	(1) IN GENERAL.—The Secretary of State shall
17	by regulation require audit reports to be filed by ex-
18	change visitor program sponsors operating under the
19	following specific program categories, as described
20	under subpart B of part 62 of title 22, Code of Fed-
21	eral Regulations, and any successor regulations:
22	(A) Summer work travel.
23	(B) Trainees and interns.
24	(C) Camp counselors.
25	(D) Au pairs.

1	(E) Teachers.
2	(2) Audit reports shall be
3	filed with the Department of State and be conducted
4	by a certified public accountant, qualified auditor, or
5	licensed attorney pursuant to a format designated by
6	the Secretary of State, attesting to the sponsor's
7	compliance with the regulatory and reporting re-
8	quirements set forth in part 62 of title 22, Code of
9	Federal Regulations. The report shall be conducted
10	at the expense of the sponsor and no more fre-
11	quently than on a biannual basis.
12	(b) Annual Report.—Not later than 1 year after
13	the date of the enactment of this Act, and annually there-
14	after, the Secretary of State shall submit to Congress a
15	report on the exchange visitor program, which shall detail
16	for each specific program category—
17	(1) summary data on the number of exchange
18	visitors and countries participating in that category
19	(2) public diplomacy outcomes; and
20	(3) recent sanctions imposed by the Depart
2.1	ment of State

1	TITLE IV—REFORMS TO NON-
2	IMMIGRANT VISA PROGRAMS
3	Subtitle A—Employment-based
4	Nonimmigrant Visas
5	SEC. 4101. MARKET-BASED H-1B VISA LIMITS.
6	(a) In General.—Section 214(g) (8 U.S.C.
7	1184(g)) is amended—
8	(1) in paragraph (1)—
9	(A) in the matter preceding subparagraph
10	(A), by striking "(beginning with fiscal year
11	1992)"; and
12	(B) by amending subparagraph (A) to read
13	as follows:
14	"(A) under section $101(a)(15)(H)(i)(b)$
15	may not exceed the sum of—
16	"(i) the base allocation calculated
17	under paragraph (9)(A); and
18	"(ii) the allocation adjustment cal-
19	culated under paragraph (9)(B); and";
20	(2) by redesignating paragraph (10) as sub-
21	paragraph (D) of paragraph (9);
22	(3) by redesignating paragraph (9) as para-
23	graph (10); and
24	(4) by inserting after paragraph (8) the fol-
25	lowing:

1 "(9)(A) Except as provided in subparagraph (C), the base allocation of nonimmigrant visas under section 101(a)(15)(H)(i)(b) for each fiscal year shall be equal 3 4 to— 5 "(i) the sum of— 6 "(I) the base allocation for the most re-7 cently completed fiscal year; and 8 "(II) the allocation adjustment under sub-9 paragraph (B) for the most recently completed 10 fiscal year; 11 "(ii) if the number calculated under clause (i) 12 is less than 115,000, 115,000; or 13 "(iii) if the number calculated under clause (i) 14 is more than 180,000, 180,000. "(B)(i) If the number of cap-subject nonimmigrant 15 under 16 visa petitions accepted for filing section 101(a)(15)(H)(i)(b) during the first 45 days petitions may be filed for a fiscal year is equal to the base allocation 18 19 for such fiscal year, an additional 20,000 such visas shall be made available beginning on the 46th day on which pe-20 21 titions may be filed for such fiscal year. 22 "(ii) If the base allocation of cap-subject nonimmigrant visa petitions accepted for filing under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 15-day period ending on the 60th day on which petitions

- 1 may be filed for such fiscal year, an additional 15,000
- 2 such visas shall be made available beginning on the 61st
- 3 day on which petitions may be filed for such fiscal year.
- 4 "(iii) If the base allocation of cap-subject non-
- 5 immigrant visa petitions accepted for filing under section
- 6 101(a)(15)(H)(i)(b) for a fiscal year is reached during the
- 7 30-day period ending on the 90th day on which petitions
- 8 may be filed for such fiscal year, an additional 10,000
- 9 such visas shall be made available beginning on the 91st
- 10 day on which petitions may be filed for such fiscal year.
- 11 "(iv) If the base allocation of cap-subject non-
- 12 immigrant visa petitions accepted for filing under section
- 13 101(a)(15)(H)(i)(b) for a fiscal year is reached during the
- 14 185-day period ending on the 275th day on which peti-
- 15 tions may be filed for such fiscal year, an additional 5,000
- 16 such visas shall be made available beginning on the date
- 17 on which such allocation is reached.
- 18 "(v) If the number of cap-subject nonimmigrant visa
- 19 petitions accepted for filing under section
- 20 101(a)(15)(H)(i)(b) for a fiscal year is at least 5,000
- 21 fewer than the base allocation, but is not more than 9,999
- 22 fewer than the base allocation, the allocation adjustment
- 23 for the following fiscal year shall be -5,000.
- 24 "(vi) If the number of cap-subject nonimmigrant visa
- 25 petitions accepted for filing under section

- 1 101(a)(15)(H)(i)(b) for a fiscal year is at least 10,000
- 2 fewer than the base allocation, but not more than 14,999
- 3 fewer than the base allocation, the allocation adjustment
- 4 for the following fiscal year shall be -10,000.
- 5 "(vii) If the number of cap-subject nonimmigrant visa
- 6 petitions accepted for filing under section
- 7 101(a)(15)(H)(i)(b) for a fiscal year is at least 15,000
- 8 fewer than the base allocation, but not more than 19,999
- 9 fewer than the base allocation, the allocation adjustment
- 10 for the following fiscal year shall be -15,000.
- 11 "(viii) If the number of cap-subject nonimmigrant
- 12 visa petitions accepted for filing under section
- 13 101(a)(15)(H)(i)(b) for a fiscal year is at least 20,000
- 14 fewer than the base allocation, the allocation adjustment
- 15 for the following fiscal year shall be -20,000.
- 16 "(C) An allocation adjustment under clause (i), (ii),
- 17 (iii), or (iv) of subparagraph (B)—
- 18 "(i) may not increase the numerical limitation
- contained in paragraph (9)(A) to a number above
- 20 180,000; and
- 21 "(ii) may not take place to make additional
- 22 nonimmigrant visas available for any fiscal year in
- 23 which the national occupational unemployment rate
- for 'Management, Professional, and Related Occupa-
- 25 tions', as published by the Bureau of Labor Statis-

- 1 tics each month, averages 4.5 percent or greater
- 2 over the 12-month period preceding the date of the
- 3 Secretary's determination of whether the cap should
- 4 be increased or decreased.".
- 5 (b) Increase in Allocation for STEM Non-
- 6 IMMIGRANTS.—Section 214(g)(5)(C) (8 U.S.C.
- 7 1184(g)(5)(C)) is amended to read as follows:
- 8 "(C) has earned a master's or higher degree, in
- 9 a field of science, technology, engineering, or math
- included in the Department of Education's Classi-
- 11 fication of Instructional Programs taxonomy within
- the summary groups of computer and information
- sciences and support services, engineering, mathe-
- matics and statistics, biological and biomedical
- sciences, and physical sciences, from a United States
- institution of higher education (as defined in section
- 17 101(a) of the Higher Education Act of 1965 (20
- 18 U.S.C. 1001(a)) until the number of aliens who are
- 19 exempted from such numerical limitation during
- such year exceed 25,000.".
- 21 (c) Publication.—
- 22 (1) Data summarizing petitions.—The Sec-
- retary shall timely upload to a public website data
- 24 that summarizes the adjudication of nonimmigrant
- petitions under section 101(a)(15)(H)(i)(b) of the

1	Immigration and Nationality Act (8 U.S.C.
2	1101(a)(15)(H)(i)(b)) during each fiscal year.
3	(2) Annual numerical limitation.—As soon
4	as practicable and no later than March 2 of each fis-
5	cal year, the Secretary shall publish in the Federal
6	Register the numerical limitation determined under
7	section 214(g)(1)(A) for such fiscal year.
8	(d) Effective Date and Application.—The
9	amendments made by subsection (a) shall take effect or
10	the first day of the first fiscal year beginning after the
11	date of the enactment of this Act and apply to applications
12	for nonimmigrant visas under section $101(a)(15)(H)(i)(b)$
13	of the Immigration and Nationality Act (8 U.S.C.
14	1101(a)(15)(H)(i)(b)) for such fiscal year.
15	SEC. 4102. EMPLOYMENT AUTHORIZATION FOR DEPEND
16	ENTS OF EMPLOYMENT-BASED NON-
17	IMMIGRANTS.
18	Section 214(c) (8 U.S.C. 1184(c)) is amended—
19	(1) by striking "Attorney General" each place
20	such term appears and inserting "Secretary of
21	Homeland Security"; and
22	(2) in paragraph (2), by amending subpara-
23	graph (E) to read as follows:
24	"(E)(i) In the case of an alien spouse admitted under

1	to join a principal alien admitted under such section, the
2	Secretary of Homeland Security shall—
3	"(I) authorize the alien spouse to engage in em-
4	ployment in the United States; and
5	"(II) provide the spouse with an 'employment
6	authorized' endorsement or other appropriate work
7	permit.
8	"(ii) In the case of an alien spouse admitted under
9	section 101(a)(15)(H)(i)(b), who is accompanying or fol-
10	lowing to join a principal alien admitted under such sec-
11	tion, the Secretary of Homeland Security shall—
12	"(I) authorize the alien spouse to engage in em-
13	ployment in the United States; and
14	"(II) provide such a spouse with an 'employ-
15	ment authorized' endorsement or other appropriate
16	work permit, if appropriate.
17	"(iii)(I) Upon the request of the Secretary of State,
18	the Secretary of Homeland Security may suspend employ-
19	ment authorizations under clause (ii) to nationals of a for-
20	eign country that does not permit reciprocal employment
21	to nationals of the United States who are accompanying
22	or following to join the employment-based nonimmigrant
23	husband or wife of such spouse to be employed in such
24	foreign country based on that status.

1	"(II) In subclause (I), the term 'employment-based
2	nonimmigrant' means an individual who is admitted to a
3	foreign country to perform employment similar to the em-
4	ployment described in section 101(a)(15)(H)(i)(b).".
5	SEC. 4103. ELIMINATING IMPEDIMENTS TO WORKER MO-
6	BILITY.
7	(a) Deference to Prior Approvals.—Section
8	214(c) (8 U.S.C. 1184(c)), as amended by section 4102
9	is further amended by adding at the end the following
10	"(15) Subject to paragraph (2)(D) and subsection (g)
11	and section 104(c) and subsections (a) and (b) of section
12	106 of the American Competitiveness in the Twenty-first
13	Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1184
14	note), the Secretary of Homeland Security shall give def-
15	erence to a prior approval of a petition in reviewing a peti-
16	tion to extend the status of a nonimmigrant admitted
17	under subparagraph (H)(i)(b) or (L) of section 101(a)(15)
18	if the petition involves the same alien and petitioner unless
19	the Secretary determines that—
20	"(A) there was a material error with regard to
21	the previous petition approval;
22	"(B) a substantial change in circumstances has
23	taken place;

1	"(C) new material information has been discov-
2	ered that adversely impacts the eligibility of the em-
3	ployer or the nonimmigrant; or
4	"(D) in the Secretary's discretion, such exten-
5	sion should not be approved.".
6	(b) Effect of Employment Termination.—Sec-
7	tion 214(n) (8 U.S.C. 1184(n)) is amended by adding at
8	the end the following:
9	"(3) A nonimmigrant admitted under section
10	101(a)(15)(H)(i)(b) whose employment relationship termi-
11	nates before the expiration of the nonimmigrant's period
12	of authorized admission shall be deemed to have retained
13	such legal status throughout the entire 60-day period be-
14	ginning on the date such employment is terminated. A
15	nonimmigrant who files a petition to extend, change, or
16	adjust their status at any point during such period shall
17	be deemed to have lawful status under section
18	101(a)(15)(H)(i)(b) while that petition is pending.".
19	(c) VISA REVALIDATION.—Section 222(c) (8 U.S.C.
20	1202(c)) is amended—
21	(1) by inserting "(1)" before "Every alien"
22	and
23	(2) by adding at the end the following:
24	"(2) The Secretary of State may, at the Secretary's
25	discretion, renew in the United States the visa of an alier

1	admitted under subparagraph (A), (E), (G), (H), (I), (L),
2	(N), (O), (P), (R), or (W) of section 101(a)(15) if the
3	alien has remained eligible for such status and qualifies
4	for a waiver of interview as provided for in subsection
5	(h)(1)(D).".
6	(d) Interview Waivers for Low Risk Visa Ap-
7	PLICANTS.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is
8	amended—
9	(1) in subparagraph $(B)(iv)$, by striking "or" at
10	the end;
11	(2) in subparagraph (C)(ii), by striking "and"
12	at the end and inserting "or"; and
13	(3) by adding at the end the following:
14	"(D) by the Secretary of State, in con-
15	sultation with the Secretary of Homeland Secu-
16	rity, for such aliens or classes of aliens—
17	"(i) that the Secretary determines
18	generally represent a low security risk;
19	"(ii) for which an in-person interview
20	would not add material benefit to the adju-
21	dication process;
22	"(iii) unless the Secretary of State,
23	after a review of all standard database and
24	biometric checks, the visa application, and
25	other supporting documents, determines

1	that an interview is unlikely to reveal de-
2	rogatory information; and
3	"(iv) except that in every case, the
4	Secretary of State retains the right to re-
5	quire an applicant to appear for an inter-
6	view; and".
7	SEC. 4104. STEM EDUCATION AND TRAINING.
8	(a) Fee.—Section 212(a)(5)(A) (8 U.S.C.
9	1182(a)(5)(A)) is amended by adding at the end the fol-
10	lowing:
11	"(v) Fee.—An employer shall submit,
12	along with an application for a certification
13	under this subparagraph, a fee of \$1,000,
14	which shall be deposited in the STEM
15	Education and Training Account estab-
16	lished under section 286(w).".
17	(b) H–1B Nonimmigrant Petitioner Account.—
18	Section 286(s) (8 U.S.C. 1356(s)) is amended by striking
19	paragraphs (3) and (4) and inserting the following:
20	"(3) Low-income stem scholarship pro-
21	GRAM.—
22	"(A) IN GENERAL.—Thirty percent of the
23	amounts deposited into the H–1B Non-
24	immigrant Petitioner Account shall remain
25	available to the Director of the National Science

Foundation until expended for scholarships described in section 414(d) of the American Competitiveness and Workforce Improvement Act of
1998 (42 U.S.C. 1869e) for low-income students enrolled in a program of study leading to
a degree in science, technology, engineering, or
mathematics.

- "(B) STEM EDUCATION FOR UNDERREP-RESENTED.—The Director shall work in consultation with, or direct scholarship funds through, national nonprofit organizations that primarily focus on science, technology, engineering, or mathematics education for underrepresented groups, such as women and minorities.
- "(C) LOAN FORGIVENESS.—The Director may expend funds from the Account for purposes of loan forgiveness or repayment of student loans which led to a low-income student obtaining a degree in science, technology, engineering, mathematics, or other high demand fields.
- "(4) NATIONAL SCIENCE FOUNDATION GRANT PROGRAM FOR K-12 SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.—

1	"(A) IN GENERAL.—Ten percent of the
2	amounts deposited into the H–1B Non-
3	immigrant Petitioner Account shall remain
4	available to the Director of the National Science
5	Foundation until expended to carry out a direct
6	or matching grant program to support improve-
7	ment in K-12 education, including through pri-
8	vate-public partnerships. Grants awarded pur-
9	suant to this paragraph shall include formula
10	based grants that target lower income popu-
11	lations with a focus on reaching women and mi-
12	norities.
13	"(B) Types of programs covered.—
14	The Director shall award grants to programs
15	that—
16	"(i) support the development and im-
17	plementation of standards-based instruc-
18	tional materials models and related student
19	assessments that enable K-12 students to
20	acquire an understanding of science, tech-
21	nology, engineering, and mathematics, and
22	to develop critical thinking skills;
23	"(ii) provide systemic improvement in
24	training K-12 teachers and education for

students in science, technology, engineer-

1	ing, and mathematics, including by sup-
2	porting efforts to promote gender-equality
3	among students receiving such instruction;
4	"(iii) support the professional develop-
5	ment of K-12 science, technology, engi-
6	neering, and mathematics teachers in the
7	use of technology in the classroom;
8	"(iv) stimulate systemwide K–12 re-
9	form of science, technology, engineering,
10	and mathematics in urban, rural, and eco-
11	nomically disadvantaged regions of the
12	United States;
13	"(v) provide externships and other op-
14	portunities for students to increase their
15	appreciation and understanding of science,
16	technology, engineering, and mathematics
17	(including summer institutes sponsored by
18	an institution of higher education for stu-
19	dents in grades 7 through 12 that provide
20	instruction in such fields);
21	"(vi) involve partnerships of industry,
22	educational institutions, and national or
23	regional community based organizations
24	with demonstrated experience addressing

1	the educational needs of disadvantaged
2	communities;
3	"(vii) provide college preparatory sup-
4	port to expose and prepare students for ca-
5	reers in science, technology, engineering,
6	and mathematics; or
7	"(viii) provide for carrying out sys-
8	temic reform activities under section
9	3(a)(1) of the National Science Foundation
10	Act of 1950 (42 U.S.C. 1862(a)(1)).".
11	(e) USE OF FEE.—Section 286 (8 U.S.C. 1356) is
12	amended by adding at the end the following:
13	"(w) STEM Education and Training Account.—
14	"(1) In general.—There is established in the
15	general fund of the Treasury a separate account,
16	which shall be known as the 'STEM Education and
17	Training Account'. Notwithstanding any other sec-
18	tion of this title, there shall be deposited as offset-
19	ting receipts into the Account all of the fees col-
20	lected under section $212(a)(5)(A)(v)$.
21	"(2) Purposes.—
22	"(A) IN GENERAL.—The purposes of the
23	STEM Education and Training Account are to
24	enhance the economic competitiveness of the
25	United States by—

1	"(i) strengthening STEM education,
2	including in computer science, at all levels;
3	"(ii) ensuring that schools have access
4	to well-trained and effective STEM teach-
5	ers;
6	"(iii) supporting efforts to strengthen
7	the elementary and secondary curriculum,
8	including efforts to make courses in com-
9	puter science more broadly available; and
10	"(iv) helping colleges and universities
11	produce more graduates in fields needed by
12	American employers.
13	"(B) Defined term.—In this paragraph,
14	the term 'STEM education' means instruction
15	in a field of science, technology, engineering or
16	math included in the Department of Edu-
17	cation's Classification of Instructional Pro-
18	grams taxonomy within the summary groups of
19	computer and information sciences and support
20	services, engineering, mathematics and statis-
21	tics, biological and biomedical sciences, and
22	physical sciences.
23	"(3) Allocations to states and terri-
24	TORIES.—

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"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Education shall proportionately allocate 70 percent of the amounts deposited into the STEM Education and Training Account each fiscal year to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands in an amount that bears the same relationship as the proportion the State, district, or territory received under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the preceding fiscal year bears to the amount all States and territories received under that subpart for the preceding fiscal year.

"(B) MINIMUM ALLOCATIONS.—No State or territory shall receive less than an amount equal to 0.5 percent of the total amount made available to all States from the STEM Education and Training Account. If a State or territory does not request an allocation from the Account for a fiscal year, the Secretary shall reallocate the State's allocation to the remaining

1	States and territories in accordance with this
2	paragraph.
3	"(C) USE OF FUNDS.—Amounts allocated
4	pursuant to this paragraph may be used for the
5	activities described in section 4104(c) of the
6	Border Security, Economic Opportunity, and
7	Immigration Modernization Act.
8	"(4) Stem capacity building at minority-
9	SERVING INSTITUTIONS.—
10	"(A) IN GENERAL.—The Secretary of Edu-
11	cation shall allocate 20 percent of the amounts
12	deposited into the STEM Education and Train-
13	ing Account to establish or expand programs to
14	award grants to institutions described in sub-
15	paragraph (C)—
16	"(i) to enhance the quality of under-
17	graduate science, technology, engineering,
18	and mathematics education at such institu-
19	tions; and
20	"(ii) to increase the retention and
21	graduation rates of students pursuing de-
22	grees in such fields at such institutions.
23	"(B) Types of programs covered.—
24	Grants awarded under this paragraph shall be
25	awarded to—

1	"(i) minority-serving institutions of
2	higher education for—
3	"(I) activities to improve courses
4	and curriculum in science, technology,
5	engineering, and mathematics;
6	"(II) efforts to promote gender
7	equality among students enrolled in
8	such courses;
9	"(III) faculty development;
10	"(IV) stipends for undergraduate
11	students participating in research;
12	and
13	"(V) other activities consistent
14	with subparagraph (A), as determined
15	by the Secretary of Education; and
16	"(ii) to other institutions of higher
17	education to partner with the institutions
18	described in clause (i) for—
19	"(I) faculty and student develop-
20	ment and exchange;
21	"(II) research infrastructure de-
22	velopment;
23	"(III) joint research projects;
24	and

1	"(IV) identification and develop-
2	ment of minority and low-income can-
3	didates for graduate studies in
4	science, technology, engineering, and
5	mathematics degree programs.
6	"(C) Institutions included.—In this
7	paragraph, the term 'institutions' shall in-
8	clude—
9	"(i) colleges eligible to receive funds
10	under the Act of August 30, 1890 (7
11	U.S.C. 321–326a and 328), including
12	Tuskegee University;
13	"(ii) 1994 Institutions, as defined in
14	section 532 of the Equity in Educational
15	Land-Grant Status Act of 1994 (7 U.S.C.
16	301 note);
17	"(iii) part B institutions (as defined
18	in section 322 of the Higher Education
19	Act of 1965 (20 U.S.C. 1061)); and
20	"(iv) Hispanic-serving institutions, as
21	defined in section 502(a)(5) of the Higher
22	Education Act of 1965 (20 U.S.C.
23	1101a(a)(5)).
24	"(D) Granting of bonding author-
25	ITY.—A recipient of a grant awarded under this

paragraph is authorized to utilize such funds for the issuance of bonds to fund research infrastructure development.

- "(E) LOAN FORGIVENESS.—The Director may expend funds from the allocation under this paragraph for purposes of loan forgiveness or repayment of student loans which led to a low-income student obtaining a degree in science, technology, engineering, mathematics, or other high demand fields.
- "(5) Workforce investment.—The Secretary of Education shall allocate 5 percent of the amounts deposited into the STEM Education and Training Account to the Secretary of Labor until expended for statewide workforce investment activities that may also benefit veterans and their spouses, including youth activities and statewide employment and training and activities for adults and dislocated workers described in section 128(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2853(a)), and the development of licensing and credentialing programs.
- "(6) AMERICAN DREAM ACCOUNTS.—The Secretary of Education shall allocate 3 percent of the amounts deposited into the STEM Education and

Training Account to award grants, on a competitive basis, to eligible entities to enable such eligible entities to establish and administer American Dream Accounts under section 4104(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

"(7) Administration expenses.—The Secretary of Education may expend up to 2 percent of the amounts deposited into the STEM Education and Training Account for administrative expenses, including conducting an annual evaluation of the implementation and impact of the activities funded by the STEM Education and Training Account as required under section 4104(c)(3) of the Border Security, Economic Opportunity, and Immigration Modernization Act.".

(d) STEM EDUCATION GRANTS.—

(1) APPLICATION PROCESS.—

(A) IN GENERAL.—Each Governor and Chief State School Officer desiring an allocation from the STEM Education and Training Account under section 286(w)(3) of the Immigration and Nationality Act, as added by subsection (b), shall jointly submit a plan, including a proposed budget, signed by the Governor

and Chief State School Officer, to the Secretary
of Education at such time, in such form, and
including such information as the Secretary of
Education may prescribe pursuant to subpara-
graph (B). The plan shall describe how the
State plans to improve STEM education to
meet the needs of students and employers in
the State.

- (B) RULEMAKING.—The Secretary of Education shall issue a rule, through a rulemaking procedure that complies with section 553 of title 5, United States Code, prescribing the information that should be included in the State plans submitted under subparagraph (A).
- (2) Allowable activities.—A State, district, or territory that receives funding from the STEM Education and Training Account may use such funding to develop and implement science, technology, engineering, and mathematics (STEM) activities to serve students, including students of underrepresented groups such as minorities, economically disadvantaged, and females by—
- (A) strengthening the State's STEM academic achievement standards;

1	(B) implementing strategies for the re-
2	cruitment, training, placement, and retention of
3	teachers in STEM fields, including computer
4	science;
5	(C) carrying out initiatives designed to as-
6	sist students in succeeding and graduating from
7	postsecondary STEM programs;
8	(D) improving the availability and access
9	to STEM-related worker training programs, in-
10	cluding community college courses and pro-
11	grams;
12	(E) forming partnerships with higher edu-
13	cation, economic development, workforce, indus-
14	try, and local educational agencies; or
15	(F) engaging in other activities, as deter-
16	mined by the State, in consultation with busi-
17	nesses and State agencies, to improve STEM
18	education.
19	(3) National evaluation.—
20	(A) In General.—Using amounts allo-
21	cated under section 286(w)(7) of the Immigra-
22	tion and Nationality Act, as added by sub-
23	section (b), the Secretary of Education shall
24	conduct, directly or through a grant or con-

tract, an annual evaluation of the implementa-

1	tion and impact of the activities funded by the
2	STEM Education and Training Account.
3	(B) Annual Report.—The Secretary
4	shall submit a report describing the results of
5	each evaluation conducted under subparagraph
6	(A) to—
7	(i) the President;
8	(ii) the Committee on the Judiciary of
9	the Senate;
10	(iii) the Committee on the Judiciary
11	of the House of Representatives;
12	(iv) the Committee on Health, Edu-
13	cation, Labor, and Pensions of the Senate
14	and
15	(v) the Committee on Education and
16	the Workforce of the House of Representa-
17	tives.
18	(C) DISSEMINATION.—The Secretary shall
19	make the findings of the evaluation widely
20	available to educators, the business community,
21	and the public.
22	(4) Rule of Construction.—Nothing in this
23	subsection may be construed to permit the Secretary
24	of Education or any other Federal official to approve

1	the content or academic achievement standards of a
2	State.
3	(e) American Dream Accounts.—
4	(1) Definitions.—In this subsection:
5	(A) AMERICAN DREAM ACCOUNT.—The
6	term "American Dream Account" means a per-
7	sonal online account for low-income students
8	that monitors higher education readiness and
9	includes a college savings account.
10	(B) Appropriate committees of con-
11	GRESS.—The term "appropriate committees of
12	Congress' means—
13	(i) the Committee on Health, Edu-
14	cation, Labor, and Pensions of the Senate;
15	(ii) the Committee on Appropriations
16	of the Senate;
17	(iii) the Committee on Finance of the
18	Senate;
19	(iv) the Committee on Education and
20	the Workforce of the House of Representa-
21	tives;
22	(v) the Committee on Appropriations
23	of the House of Representatives;

1	(vi) the Committee on Ways and
2	Means of the House of Representatives;
3	and
4	(vii) any other committee of the Sen-
5	ate or House of Representatives that the
6	Secretary determines appropriate.
7	(C) COLLEGE SAVINGS ACCOUNT.—The
8	term "college savings account" means a savings
9	account that—
10	(i) provides some tax-preferred accu-
11	mulation;
12	(ii) is widely available (such as Quali-
13	fied Tuition Programs under section 529
14	of the Internal Revenue Code of 1986 or
15	Coverdell Education Savings Accounts
16	under section 530 of the Internal Revenue
17	Code of 1986); and
18	(iii) contains funds that may be used
19	only for the costs associated with attending
20	an institution of higher education, includ-
21	ing—
22	(I) tuition and fees;
23	(II) room and board;
24	(III) textbooks;
25	(IV) supplies and equipment; and

1	(V) internet access.
2	(D) DUAL ENROLLMENT PROGRAM.—The
3	term "dual enrollment program" means an aca-
4	demic program through which a secondary
5	school student is able simultaneously to earn
6	credit toward a secondary school diploma and a
7	postsecondary degree or credential.
8	(E) ELIGIBLE ENTITY.—The term "eligible
9	entity" means—
10	(i) a State educational agency;
11	(ii) a local educational agency;
12	(iii) a charter school or charter man-
13	agement organization;
14	(iv) an institution of higher education;
15	(v) a nonprofit organization;
16	(vi) an entity with demonstrated expe-
17	rience in educational savings or in assist-
18	ing low-income students to prepare for,
19	and attend, an institution of higher edu-
20	cation; or
21	(vii) a consortium of 2 or more of the
22	entities described in clause (i) through (vi).
23	(F) ESEA DEFINITIONS.—The terms
24	"local educational agency", "parent", and
25	"State educational agency" have the meanings

	given the terms in section 9101 of the Elemen-
2	tary and Secondary Education Act of 1965 (20
3	U.S.C. 7801) and the term "charter school"
1	has the meaning given the term in section 5210
5	of such Act.

- (G) Institution of Higher Education.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).
- (H) LOW-INCOME STUDENT.—The term "low-income student" means a student who is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) Grant Program.—

- (A) Program authorized.—The Secretary of Education is authorized to award grants, on a competitive basis, to eligible entities to enable such eligible entities to establish and administer American Dream Accounts for a group of low-income students.
- (B) RESERVATION.—From the amount made available each fiscal year to carry out this section under section 286(w)(6) of the Immi-

1	gration and Nationality Act, the Secretary of
2	Education shall reserve not more than 5 per-
3	cent of such amount to carry out the evaluation
4	activities described in paragraph (5)(A).
5	(C) Duration.—A grant awarded under
6	this subsection shall be for a period of not more
7	than 3 years. The Secretary of Education may
8	extend such grant for an additional 2-year pe-
9	riod if the Secretary of Education determines
10	that the eligible entity has demonstrated signifi-
11	cant progress, based on the factors described in
12	paragraph (3)(B)(xi).
13	(3) Applications; priority.—
14	(A) In general.—Each eligible entity de-
15	siring a grant under this subsection shall sub-
16	mit an application to the Secretary of Edu-
17	cation at such time, in such manner, and con-
18	taining such information as the Secretary of
19	Education may require.
20	(B) Contents.—The application de-
21	scribed in subparagraph (A) shall include—
22	(i) a description of the characteristics
23	of a group of not less than 30 low-income
24	public school students who—

1	(I) are, at the time of the appli-
2	cation, attending a grade not higher
3	than grade 9; and
4	(II) will, under the grant, receive
5	an American Dream Account;
6	(ii) a description of how the eligible
7	entity will engage, and provide support
8	(such as tutoring and mentoring for stu-
9	dents, and training for teachers and other
10	stakeholders) either online or in person,
11	to—
12	(I) the students in the group de-
13	scribed in clause (i);
14	(II) the family members and
15	teachers of such students; and
16	(III) other stakeholders such as
17	school administrators and school
18	counselors;
19	(iii) an identification of partners who
20	will assist the eligible entity in establishing
21	and sustaining American Dream Accounts;
22	(iv) a description of what experience
23	the eligible entity or the eligible entity's
24	partners have in managing college savings
25	accounts, preparing low-income students

1	for postsecondary education, managing on-
2	line systems, and teaching financial lit-
3	eracy;
4	(v) a description of how the eligible
5	entity will help increase the value of the
6	college savings account portion of each
7	American Dream Account, such as by pro-
8	viding matching funds or incentives for
9	academic achievement;
10	(vi) a description of how the eligible
11	entity will notify each participating student
12	in the group described in subparagraph
13	(A), on a semiannual basis, of the current
14	balance and status of the student's college
15	savings account portion of the student's
16	American Dream Account;
17	(vii) a plan that describes how the eli-
18	gible entity will monitor participating stu-
19	dents in the group described in clause (i)
20	to ensure that each student's American
21	Dream Account will be maintained if a stu-
22	dent in such group changes schools before
23	graduating from secondary school;
24	(viii) a plan that describes how the
25	American Dream Accounts will be man-

1	aged for not less than 1 year after a ma-
2	jority of the students in the group de-
3	scribed in clause (i) graduate from sec-
4	ondary school;
5	(ix) a description of how the eligible
6	entity will encourage students in the group
7	described in clause (i) who fail to graduate
8	from secondary school to continue their
9	education;
10	(x) a description of how the eligible
11	entity will evaluate the grant program, in-
12	cluding by collecting, as applicable, data
13	about the students in the group described
14	in clause (i) during the grant period, and,
15	if sufficient grant funds are available, after
16	the grant period, including
17	(I) attendance rates;
18	(II) progress reports;
19	(III) grades and course selec-
20	tions;
21	(IV) the student graduation rate
22	(as defined in section 1111
23	(b)(2)(C)(vi) of the Elementary and
24	Secondary Education Act of 1965 (20
25	U.S.C. 6311(b)(2)(C)(vi))):

1	(V) rates of student completion
2	of the Free Application for Federal
3	Student Aid described in section 483
4	of the Higher Education Act of 1965
5	(20 U.S.C. 1090);
6	(VI) rates of enrollment in an in-
7	stitution of higher education; and
8	(VII) rates of completion at an
9	institution of higher education;
10	(xi) a description of what will happen
11	to the funds in the college savings account
12	portion of the American Dream Accounts
13	that are dedicated to participating stu-
14	dents described in clause (i) who have not
15	matriculated at an institution of higher
16	education at the time of the conclusion of
17	the period of American Dream Account
18	management described in clause (viii);
19	(xii) a description of how the eligible
20	entity will ensure that funds in the college
21	savings account portion of the American
22	Dream Accounts will not make families in-
23	eligible for public assistance; and
24	(xiii) a description of how the eligible
25	entity will ensure that participating stu-

1	dents described in clause (i) will have ac-
2	cess to the Internet;
3	(C) Priority.—In awarding grants under
4	this subsection, the Secretary of Education
5	shall give priority to applications from eligible
6	entities that—
7	(i) are described in paragraph
8	(1)(E)(vii);
9	(ii) serve the largest number of low-in-
10	come students;
11	(iii) emphasize preparing students to
12	pursue careers in science, technology, engi-
13	neering, or mathematics; or
14	(iv) in the case of an eligible entity
15	described in clause (i) or (ii) of paragraph
16	(1)(E), provide opportunities for partici-
17	pating students described in clause (i) to
18	participate in a dual enrollment program
19	at no cost to the student.
20	(4) Authorized activities.—
21	(A) In general.—An eligible entity that
22	receives a grant under this subsection shall use
23	such grant funds to establish an American
24	Dream Account for each participating student

1	described in paragraph (3)(B)(i), which will be
2	used to—
3	(i) open a college savings account for
4	such student;
5	(ii) monitor the progress of such stu-
6	dent online, which—
7	(I) shall include monitoring stu-
8	dent data relating to—
9	(aa) grades and course se-
10	lections;
11	(bb) progress reports; and
12	(cc) attendance and discipli-
13	nary records; and
14	(II) may also include monitoring
15	student data relating to a broad range
16	of information, provided by teachers
17	and family members, related to post-
18	secondary education readiness, access,
19	and completion;
20	(iii) provide opportunities for such
21	students, either online or in person, to
22	learn about financial literacy, including
23	by—

1	(I) assisting such students in fi-
2	nancial planning for enrollment in an
3	institution of higher education; and
4	(II) assisting such students in
5	identifying and applying for financial
6	aid (such as loans, grants, and schol-
7	arships) for an institution of higher
8	education;
9	(iv) provide opportunities for such
10	students, either online or in person, to
11	learn about preparing for enrollment in an
12	institution of higher education, including
13	by providing instruction to students
14	about—
15	(I) choosing the appropriate
16	courses to prepare for postsecondary
17	education;
18	(II) applying to an institution of
19	higher education;
20	(III) building a student portfolio,
21	which may be used when applying to
22	an institution of higher education;
23	(IV) selecting an institution of
24	higher education;

1	(V) choosing a major for the stu-
2	dent's postsecondary program of edu-
3	cation or a career path, including spe-
4	cific instruction on pursuing science,
5	technology, engineering, and mathe-
6	matics majors; and
7	(VI) adapting to life at an insti-
8	tution of higher education; and
9	(v) provide opportunities for such stu-
10	dents, either online or in person, to iden-
11	tify skills or interests, including career in-
12	terests.
13	(B) Access to american dream ac-
14	COUNT.—
15	(i) In general.—Subject to clause
16	(iii) and (iv), and in accordance with appli-
17	cable Federal laws and regulations relating
18	to privacy of information and the privacy
19	of children, an eligible entity that receives
20	a grant under this subsection shall allow
21	vested stakeholders described in clause (ii),
22	to have secure access, through the Inter-
23	net, to an American Dream Account.
24	(ii) Vested stakeholders.—The
25	vested stakeholders that an eligible entity

1	shall permit to access an American Dream
2	Account are individuals (such as the stu-
3	dent's teachers, school counselors, coun-
4	selors at an institution of higher education,
5	school administrators, or other individuals)
6	that are designated, in accordance with the
7	Family Educational Rights and Privacy
8	Act of 1974 (20 U.S.C. 1232g), by the
9	parent of a participating student in whose
10	name such American Dream Account is
11	held, as having permission to access the
12	account. A student's parent may withdraw
13	such designation from an individual at any
14	time.
15	(iii) Exception for college sav-
16	INGS ACCOUNT.—An eligible entity that re-
17	ceives a grant under this subsection shall
18	not be required to give vested stakeholders
19	described in clause (ii), access to the col-

(iv) ADULT STUDENTS.—Notwithstanding clause (i) through (iii), if a participating student is age 18 or older, an eligible entity that receives a grant under

lege savings account portion of a student's

American Dream Account.

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1	this subsection shall not provide access to
2	such participating student's American
3	Dream Account without the student's con-
4	sent, in accordance with the Family Edu-
5	cational Rights and Privacy Act of 1974
6	(20 U.S.C. 1232g).
7	(v) Input of student informa-
8	TION.—Student data collected pursuant to
9	subparagraph (A)(ii)(I) may only be en-
10	tered into an American Dream Account by
11	a school administrator or such administra-
12	tor's designee.
13	(C) Prohibition on use of student in-
14	FORMATION.—An eligible entity that receives a
15	grant under this subsection may not use any
16	student-level information or data for the pur-
17	pose of soliciting, advertising, or marketing any
18	financial or nonfinancial consumer product or
19	service that is offered by such eligible entity, or
20	on behalf of any other person.
21	(D) LIMITATION ON THE USE OF GRANT
22	FUNDS.—An eligible entity shall not use more

than 25 percent of the grant funds provided

1	posit into a college savings account portion of
2	a student's American Dream Account.
3	(5) Reports and evaluations.—
4	(A) IN GENERAL.—Not later than 1 year
5	after the Secretary of Education has disbursed
6	grants under this subsection, and annually
7	thereafter, the Secretary of Education shall pre-
8	pare and submit a report to the appropriate
9	committees of Congress that includes an evalua-
10	tion of the effectiveness of the grant program
11	established under this subsection.
12	(B) Contents.—The report described in
13	subparagraph (A) shall—
14	(i) list the grants that have been
15	awarded under paragraph (2)(A);
16	(ii) include the number of students
17	who have an American Dream Account es-
18	tablished through a grant awarded under
19	paragraph (2)(A);
20	(iii) provide data (including the inter-
21	est accrued on college savings accounts
22	that are part of an American Dream Ac-
23	count) in the aggregate, regarding stu-
24	dents who have an American Dream Ac-
25	count established through a grant awarded

1	under paragraph $(2)(A)$, as compared to
2	similarly situated students who do not have
3	an American Dream Account;
4	(iv) identify best practices developed
5	by the eligible entities receiving grants
6	under this subsection;
7	(v) identify any issues related to stu-
8	dent privacy and stakeholder accessibility
9	to American Dream Accounts;
10	(vi) provide feedback from partici-
11	pating students and the parents of such
12	students about the grant program, includ-
13	ing—
14	(I) the impact of the program;
15	(II) aspects of the program that
16	are successful;
17	(III) aspects of the program that
18	are not successful; and
19	(IV) any other data required by
20	the Secretary of Education; and
21	(vii) provide recommendations for ex-
22	panding the American Dream Accounts
23	program.
24	(6) Eligibility to receive federal stu-
25	DENT FINANCIAL AID.—Notwithstanding any other

- 1 provision of law, any funds that are in the college
- 2 savings account portion of a student's American
- 3 Dream Account shall not affect such student's eligi-
- 4 bility to receive Federal student financial aid, includ-
- 5 ing any Federal student financial aid under the
- 6 Higher Education Act of 1965 (20 U.S.C. 1001),
- 7 and shall not be considered in determining the
- 8 amount of any such Federal student aid.
- 9 (f) Conforming Amendment.—Section 480(j) of
- 10 the Higher Education Act of 1965 (20 U.S.C. 1087vv(j))
- 11 is amended by adding at the end the following:
- 12 "(5) Notwithstanding paragraph (1), amounts
- made available under the college savings account
- portion of an American Dream Account under sec-
- tion 4105(e)(4) of the Illegal Immigration Reform
- and Immigrant Responsibility Act of 1996 shall not
- be treated as estimated financial assistance for pur-
- poses of section 471(3).".
- 19 SEC. 4105. H-1B AND L VISA FEES.
- 20 Section 281 (8 U.S.C. 1351) is amended—
- 21 (1) by striking "The fees" and inserting the fol-
- 22 lowing:
- 23 "(a) IN GENERAL.—The fees";
- 24 (2) by striking ": Provided, That nonimmigrant
- visas" and inserting the following: ".

1	"(b) United Nations Visitors.—Nonimmigrant
2	visas'';
3	(3) by striking "Subject to" and inserting the
4	following:
5	"(c) Fee Waivers or Reductions.—Subject to";
6	and
7	(4) by adding at the end the following:
8	"(d) H–1B AND L VISA FEES.—In addition to the
9	fees authorized under subsection (a), the Secretary of
10	Homeland Security shall collect, from each employer (ex-
11	cept for nonprofit research institutions and nonprofit edu-
12	cational institutions) filing a petition to hire non-
13	immigrants described in subparagraph (H)(i)(B) or (L)
14	of section 101(a)(15), a fee in an amount equal to—
15	"(1) \$1,250 for each such petition filed by any
16	employer with not more than 25 full-time equivalent
17	employees in the United States; and
18	"(2) \$2,500 for each such petition filed by any
19	employer with more than 25 such employees.".

1	Subtitle B—H-1B Visa Fraud and
2	Abuse Protections
3	CHAPTER 1—H-1B EMPLOYER
4	APPLICATION REQUIREMENTS
5	SEC. 4211. MODIFICATION OF APPLICATION REQUIRE-
6	MENTS.
7	(a) General Application Requirements.—
8	(1) Wage rates.—Section 212(n)(1)(A) (8
9	U.S.C. 1182(n)(1)(A)) is amended—
10	(A) in clause (i)—
11	(i) in the matter preceding subclause
12	(I), by inserting "if the employer is not an
13	H–1B-dependent employer," before "is of-
14	fering";
15	(ii) in subclause (I), by striking
16	"question, or" and inserting "question;
17	or'';
18	(iii) in subclause (II), by striking
19	"employment," and inserting "employ-
20	ment;" and
21	(iv) in the undesignated material fol-
22	lowing subclause (II), by striking "applica-
23	tion, and" and inserting "application;";
24	and

1	(B) by striking clause (ii) and inserting the
2	following:
3	"(ii) if the employer is an H–1B-dependent
4	employer, is offering and will offer to H–1B
5	nonimmigrants, during the period of authorized
6	employment for each H–1B nonimmigrant,
7	wages that are not less than the level 2 wages
8	set out in subsection (p); and
9	"(iii) will provide working conditions for
10	H–1B nonimmigrants that will not adversely af-
11	fect the working conditions of other workers
12	similarly employed.".
13	(2) Strengthening the prevailing wage
14	SYSTEM.—Section 212(p) (8 U.S.C. 1182(p)) is
15	amended to read as follows:
16	"(p) Computation of Prevailing Wage Level.—
17	"(1) In general.—
18	"(A) Surveys.—For employers of non-
19	immigrants admitted pursuant to section
20	101(a)(15)(H)(i)(b), the Secretary of Labor
21	shall make available to employers a govern-
22	mental survey to determine the prevailing wage
23	for each occupational classification by metro-
24	politan statistical area in the United States.
25	Such survey, or other survey approved by the

1	Secretary of Labor, shall provide 3 levels of
2	wages commensurate with experience, edu-
3	cation, and level of supervision. Such wage lev-
4	els shall be determined as follows:
5	"(i) The first level shall be the mean
6	of the lowest two-thirds of wages surveyed,
7	but in no case less than 80 percent of the
8	mean of the wages surveyed.
9	"(ii) The second level shall be the
10	mean of wages surveyed.
11	"(iii) The third level shall be the
12	mean of the highest two-thirds of wages
13	surveyed.
14	"(B) Educational, nonprofit, re-
15	SEARCH, AND GOVERNMENTAL ENTITIES.—In
16	computing the prevailing wage level for an occu-
17	pational classification in an area of employment
18	for purposes of section 203(b)(1)(D) and sub-
19	sections $(a)(5)(A)$, $(n)(1)(A)(i)(II)$, and
20	(t)(1)(A)(i)(II) of this section in the case of an
21	employee of—
22	"(i) an institution of higher education,
23	or a related or affiliated nonprofit entity;
24	or

1	"(ii) a nonprofit research organization
2	or a governmental research organization;
3	the prevailing wage level shall only take into ac-
4	count employees at such institutions and orga-
5	nizations in the area of employment.
6	"(2) PAYMENT OF PREVAILING WAGE.—The
7	prevailing wage level required to be paid pursuant to
8	section $203(b)(1)(D)$ and subsections $(a)(5)(A)$,
9	(n)(1)(A)(i)(II), and $(t)(1)(A)(i)(II)$ of this section
10	shall be 100 percent of the wage level determined
11	pursuant to those sections.
12	"(3) Professional athlete.—With respect
13	to a professional athlete (as defined in subsection
14	(a)(5)(A)(iii)(II)) when the job opportunity is cov-
15	ered by professional sports league rules or regula-
16	tions, the wage set forth in those rules or regula-
17	tions shall be considered as not adversely affecting
18	the wages of United States workers similarly em-
19	ployed and shall be considered the prevailing wage.
20	"(4) Wages for H-2B employees.—
21	"(A) IN GENERAL.—The wages paid to H-
22	2B nonimmigrants employed by the employer
23	will be the greater of—
24	"(i) the actual wage level paid by the
25	employer to other employees with similar

1	experience and qualifications for such posi-
2	tion; or
3	"(ii) the prevailing wage level for the
4	occupational classification of the position
5	in the geographic area of the employment,
6	based on the best information available as
7	of the time of filing the application.
8	"(B) Best information available.—In
9	subparagraph (A), the term 'best information
10	available', with respect to determining the pre-
11	vailing wage for a position, means—
12	"(i) a controlling collective bargaining
13	agreement or Federal contract wage, if ap-
14	plicable;
15	"(ii) if there is no applicable wage
16	under clause (i), the wage level commensu-
17	rate with the experience, training, and su-
18	pervision required for the job based on Bu-
19	reau of Labor Statistics data; or
20	"(iii) if the data referred to in clause
21	(ii) is not available, a legitimate and recent
22	private survey of the wages paid for such
23	positions in the metropolitan statistical
24	area.''.

1	(3) Wages for educational, nonprofit,
2	RESEARCH, AND GOVERNMENTAL ENTITIES.—Sec-
3	tion 212 (8 U.S.C. 1182), as amended by sections
4	2312 and 2313, is further amended by adding at the
5	end the following:
6	"(x) Determination of Prevailing Wage.—In
7	the case of a nonprofit institution of higher education (as
8	defined in section 101(a) of the Higher Education Act of
9	1965 (20 U.S.C. 1001(a))), a related or affiliated non-
10	profit entity, a nonprofit research organization, or a gov-
11	ernmental research organization, the Secretary of Labor
12	shall determine such wage levels as follows:
13	"(1) If the Secretary of Labor uses, or makes
14	available to employers, a governmental survey to de-
15	termine the prevailing wage, such survey shall pro-
16	vide at least 4 levels of wages commensurate with
17	experience, education, and the level of supervision.
18	"(2) If an existing government survey has only
19	2 levels, 2 intermediate levels may be created by di-
20	viding by 3, the difference between the 2 levels of-
21	fered, adding the quotient thus obtained to the first
22	level and subtracting that quotient from the second
23	level.

I	"(3) For institutions of higher education, only
2	teaching positions and research positions may be
3	paid using this special educational wage level.
4	"(4) In computing the prevailing wage level for
5	an occupational classification in an area of employ-
6	ment for purposes of subsections $(a)(5)(A)$,
7	(n)(1)(A)(i)(II), and $(t)(1)(A)(i)(II)$ and section
8	203(b)(1)(D) for an employee of an institution of
9	higher education, or a related or affiliated nonprofit
10	entity or a nonprofit research organization or a gov-
11	ernmental research organization, the prevailing wage
12	level shall only take into account employees at such
13	institutions and organizations in the area of employ-
14	ment.".
15	(b) Internet Posting Requirement.—Section
16	212(n)(1)(C) (8 U.S.C. 1182(n)(1)(C)) is amended—
17	(1) by redesignating clause (ii) as subclause
18	$(\mathrm{II});$
19	(2) by striking "(i) has provided" and inserting
20	the following:
21	"(ii)(I) has provided";
22	(3) by striking "sought, or" and inserting
23	"sought; or"; and
24	(4) by inserting before clause (ii), as redesig-
25	nated by paragraph (2), the following:

1	"(i) has advertised on the Internet website
2	maintained by the Secretary of Labor for the
3	purpose of such advertising, for at least 30 cal-
4	endar days, a detailed description of each posi-
5	tion for which a nonimmigrant is sought that
6	includes a description of—
7	"(I) the wage ranges and other terms
8	and conditions of employment;
9	"(II) the minimum education, train-
10	ing, experience, and other requirements for
11	the position;
12	"(III) the process for applying for the
13	position;
14	"(IV) the title and description of the
15	position, including the location where the
16	work will be performed; and
17	"(V) the name, city, and zip code of
18	the employer; and".
19	(c) Application of Requirements to All Em-
20	PLOYERS.—
21	(1) Nondisplacement.—Section 212(n)(1)(E)
22	(8 U.S.C. $1182(n)(1)(E)$) is amended to read as fol-
23	lows:
24	"(E)(i)(I) In the case of an application filed by
25	an employer that is an H–1B skilled worker depend-

1	ent employer, and is not an H–1B dependent em-
2	ployer, the employer did not displace and will not
3	displace a United States worker employed by the
4	employer during the period beginning 90 days before
5	the date on which a visa petition supported by the
6	application is filed and ending 90 days after such fil-
7	ing.
8	"(II) An employer that is not an H–1B skilled
9	worker dependent employer shall not be subject to
10	subclause (I) unless—
11	"(aa) the employer is filing the H–1B peti-
12	tion with the intent or purpose of displacing a
13	specific United States worker from the position
14	to be occupied by the beneficiary of the petition;
15	or
16	"(bb) workers are displaced who—
17	"(AA) provide services, in whole or in
18	part, at 1 or more worksites owned, oper-
19	ated, or controlled by a Federal, State, or
20	local government entity, other than a pub-
21	lic institution of higher education, that di-
22	rects and controls the work of the $H-1B$
23	worker; or

1	"(BB) are employed as public school
2	kindergarten, elementary, middle school, or
3	secondary school teachers.
4	"(ii)(I) In the case of an application filed by an
5	H–1B-dependent employer, the employer did not dis-
6	place and will not displace a United States worker
7	employed by the employer within the period begin-
8	ning 180 days before the date on which a visa peti-
9	tion supported by the application is filed and ending
10	180 days after such filing.
11	"(II) An application described in this clause is
12	an application filed on or after the date final regula-
13	tions are first promulgated to carry out this sub-
14	paragraph, and before by an H–1B-dependent em-
15	ployer (as defined in paragraph (3)) or by an em-
16	ployer that has been found, on or after the date of
17	the enactment of the American Competitiveness and
18	Workforce Improvement Act of 1998, under para-
19	graph (2)(C) or (5) to have committed a willful fail-
20	ure or misrepresentation during the 5-year period
21	preceding the filing of the application.
22	"(iii) In this subparagraph, the term 'job zone
23	means a zone assigned to an occupation by—

1	"(I) the Occupational Information Network
2	Database (O*NET) on the date of the enact-
3	ment of this Act; or
4	"(II) such database or a similar successor
5	database, as designated by the Secretary of
6	Labor, after the date of the enactment of Bor-
7	der Security, Economic Opportunity, and Immi-
8	gration Modernization Act.".
9	(2) Recruitment.—Section $212(n)(1)(G)$ (8
10	U.S.C. 1182(n)(1)(G)) is amended to read as fol-
11	lows:
12	"(G) An employer, prior to filing the applica-
13	tion—
14	"(i) has taken good faith steps to recruit
15	United States workers for the occupational clas-
16	sification for which the nonimmigrant or non-
17	immigrants is or are sought, using procedures
18	that meet industry-wide standards and offering
19	compensation that is at least as great as that
20	required to be offered to H–1B nonimmigrants
21	under subparagraph (A);
22	"(ii) has advertised the job on an Internet
23	website maintained by the Secretary of Labor
24	for the purpose of such advertising; and

1	"(iii) if the employer is an H-1B skilled
2	worker dependent employer, has offered the job
3	to any United States worker who applies and is
4	equally or better qualified for the job for which
5	the nonimmigrant or nonimmigrants is or are
6	sought.".
7	(d) Outplacement.—Section 212(n)(1)(F) (8
8	U.S.C. $1182(n)(1)(F)$) is amended to read as follows:
9	"(F)(i) An H–1B-dependent employer may
10	not place, outsource, lease, or otherwise con-
11	tract for the services or placement of an H–1B
12	nonimmigrant employee.
13	"(ii) An employer that is not an H-1B-de-
14	pendent employer and not described in para-
15	graph (3)(A)(i) may not place, outsource, lease,
16	or otherwise contract for the services or place-
17	ment of an H–1B nonimmigrant employee un-
18	less the employer pays a fee of \$500 per
19	outplaced worker.
20	"(iii) A fee collected under clause (ii) shall
21	be deposited in the Comprehensive Immigration
22	Reform Trust Fund established under section 6
23	of the Border Security, Economic Opportunity,
24	and Immigration Modernization Act.

1	"(iv) An H–1B dependent employer shall
2	be exempt from the prohibition on outplacement
3	under clause (i) if the employer is a nonprofit
4	institution of higher education, a nonprofit re-
5	search organization, or primarily a health care
6	business and is petitioning for a physician, a
7	nurse, or a physical therapist or a substantially
8	equivalent health care occupation. Such em-
9	ployer shall be subject to the fee set forth in
10	clause (ii).''.
11	(e) H–1B-dependent Employer Defined.—Sec-
12	tion 212(n)(3) (8 U.S.C. 1182(n)(3)) is amended to read
13	as follows:
14	"(3)(A) The term 'H–1B-dependent employer' means
15	an employer (other than nonprofit education and research
16	institutions) that—
17	"(i) in the case of an employer that has 25 or
18	fewer full-time equivalent employees who are em-
19	ployed in the United States, employs more than 7
20	H-1B nonimmigrants;
21	"(ii) in the case of an employer that has at
22	least 26 but not more than 50 full-time equivalent
23	employees who are employed in the United States,
24	employs more than 12 H-1B nonimmigrants; or

- 1 "(iii) in the case of an employer that has at
- 2 least 51 full-time equivalent employees who are em-
- ployed in the United States, employs H–1B non-
- 4 immigrants in a number that is equal to at least 15
- 5 percent of the number of such full-time equivalent
- 6 employees.
- 7 "(B) In determining the number of employees who
- 8 are H–1B nonimmigrants under subparagraph (A)(ii), an
- 9 intending immigrant employee shall not count toward such
- 10 number.".
- 11 (f) H–1B SKILLED WORKER DEPENDENT DE-
- 12 FINED.—Section 212(n)(3) (8 U.S.C. 1182(n)(3)) is
- 13 amended—
- (1) by redesignating subparagraph (B) as sub-
- paragraph (D); and
- 16 (2) by inserting after subparagraph (A) the fol-
- lowing:
- 18 "(B)(i) For purposes of this subsection, an 'H–1B
- 19 skilled worker dependent employer' means an employer
- 20 (other than nonprofit education and research institutions)
- 21 that employs H-1B nonimmigrants in the United States
- 22 in a number that in total is equal to at least 15 percent
- 23 of the number of its full-time equivalent employees in the
- 24 United States employed in occupations contained within

1	Occupational Information Network Database (O*NET)
2	Job Zone 4 and Job Zone 5.
3	"(ii) An H–1B nonimmigrant who is an intending im-
4	migrant shall be counted as a United States worker in
5	making a determination under clause (i).".
6	(g) Intending Immigrants Defined.—Section
7	101(a) (8 U.S.C. 1101(a)), as amended by section
8	3504(a), is further amended by adding at the end the fol-
9	lowing:
10	"(54)(A) The term 'intending immigrant'
11	means, with respect to the number of aliens em-
12	ployed by an employer, an alien who intends to work
13	and reside permanently in the United States, as evi-
14	denced by—
15	"(i) a pending or approved application for
16	a labor certification filed for such alien by a
17	covered employer; or
18	"(ii) a pending or approved immigrant sta-
19	tus petition filed for such alien by a covered
20	employer.
21	"(B) In this paragraph:
22	"(i) The term 'covered employer' means an
23	employer that has filed immigrant status peti-
24	tions for not less than 90 percent of current
25	employees who were the beneficiaries of applica-

1	tions for labor certification that were approved
2	during the 1-year period ending 6 months be-
3	fore the filing of an application or petition for
4	which the number of intending immigrants is
5	relevant.
6	"(ii) The term 'immigrant status petition'
7	means a petition filed under paragraph (1), (2),
8	or (3) of section 203(b).
9	"(iii) The term 'labor certification' means
10	an employment certification under section
11	212(a)(5)(A).
12	"(C) Notwithstanding any other provision of
13	law—
14	"(i) for all calculations under this Act, of
15	the number of aliens admitted pursuant to sub-
16	paragraph (H)(i)(b) or (L) of paragraph (15),
17	an intending immigrant shall be counted as an
18	alien lawfully admitted for permanent residence
19	and shall not be counted as an employee admit-
20	ted pursuant to such a subparagraph; and
21	"(ii) for all determinations of the number
22	of employees or United States workers em-
23	ployed by an employer, all of the employees in
24	any group treated as a single employer under
25	subsection (b), (c), (m), or (o) of section 414 of

- 1 the Internal Revenue Code of 1986 shall be
- 2 counted.".
- 3 SEC. 4212. REQUIREMENTS FOR ADMISSION OF NON-
- 4 IMMIGRANT NURSES IN HEALTH PROFES-
- 5 SIONAL SHORTAGE AREAS.
- 6 (a) Extension of Period of Authorized Admis-
- 7 SION.—Section 212(m)(3) (8 U.S.C. 1182(m)(3)) is
- 8 amended to read as follows:
- 9 "(3) The initial period of authorized admission as a
- 10 nonimmigrant under section 101(a)(15)(H)(i)(c) shall be
- 11 3 years, and may be extended once for an additional 3-
- 12 year period.".
- 13 (b) Number of Visas.—Section 212(m)(4) (8
- 14 U.S.C. 1182(m)(4)) is amended by striking "500." and
- 15 inserting "300.".
- 16 (c) Portability.—Section 214(n) (8 U.S.C.
- 17 1184(n)), as amended by section 4103(b), is further
- 18 amended by adding at the end the following:
- 19 "(4)(A) A nonimmigrant alien described in subpara-
- 20 graph (B) who was previously issued a visa or otherwise
- 21 provided nonimmigrant status under section
- 22 101(a)(15)(H)(i)(c) is authorized to accept new employ-
- 23 ment performing services as a registered nurse for a facil-
- 24 ity described in section 212(m)(6) upon the filing by the
- 25 prospective employer of a new petition on behalf of such

1	nonimmigrant as provided under subsection (c). Employ
2	ment authorization shall continue for such alien until the
3	new petition is adjudicated. If the new petition is denied
4	such authorization shall cease.
5	"(B) A nonimmigrant alien described in this para
6	graph is a nonimmigrant alien—
7	"(i) who has been lawfully admitted into the
8	United States;
9	"(ii) on whose behalf an employer has filed a
10	nonfrivolous petition for new employment before the
11	date of expiration of the period of stay authorized by
12	the Secretary of Homeland Security, except that, i
13	a nonimmigrant described in section
14	101(a)(15)(H)(i)(c) is terminated or laid off by the
15	nonimmigrant's employer, or otherwise ceases em
16	ployment with the employer, such petition for new
17	employment shall be filed during the 60-day period
18	beginning on the date of such termination, lay off
19	or cessation; and
20	"(iii) who, subsequent to such lawful admission
21	has not been employed without authorization in the
22	United States before the filing of such petition.".
23	(d) Applicability.—
24	(1) In General.—Beginning on the commence

ment date described in paragraph (2), the amend-

- 1 ments made by section 2 of the Nursing Relief for
- 2 Disadvantaged Areas Act of 1999 (Public Law 106–
- 3 95; 113 Stat. 1313), and the amendments made by
- 4 this section, shall apply to classification petitions
- 5 filed for nonimmigrant status. This period shall be
- 6 in addition to the period described in section 2(e) of
- 7 the Nursing Relief for Disadvantaged Areas Act of
- 8 1999 (8 U.S.C. 1182 note).
- 9 (2) Commencement date.—Not later than 60
- days after the date of the enactment of this Act, the
- 11 Secretary shall determine whether regulations are
- 12 necessary to implement the amendments made by
- this section. If the Secretary determines that no
- such regulations are necessary, the commencement
- date described in this paragraph shall be the date of
- such determination. If the Secretary determines that
- 17 regulations are necessary to implement any amend-
- ment made by this section, the commencement date
- described in this paragraph shall be the date on
- which such regulations (in final form) take effect.
- 21 SEC. 4213. NEW APPLICATION REQUIREMENTS.
- 22 Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended
- 23 by inserting after clause (iii) of subparagraph (G), as
- 24 amended by section 4211(c)(2), the following:

1	"(H)(i) The employer has not advertised any
2	available position specified in the application in an
3	advertisement that states or indicates that—
4	"(I) such position is only available to an
5	individual who is or will be an H–1B non-
6	immigrant or an alien participating in optional
7	practical training pursuant to section
8	101(a)(15)(F)(i); or
9	"(II) an individual who is or will be an H-
10	1B nonimmigrant or participant in such op-
11	tional practical training shall receive priority or
12	a preference in the hiring process for such posi-
13	tion.
14	"(ii) The employer has not solely recruited indi-
15	viduals who are or who will be H–1B nonimmigrants
16	or participants in optional practical training pursu-
17	ant to section $101(a)(15)(F)(i)$ to fill such position.
18	``(I)(i) If the employer (other than an edu-
19	cational or research employer) employs 50 or more
20	employees in the United States, the sum of the num-
21	ber of such employees who are H–1B nonimmigrants
22	plus the number of such employees who are non-
23	immigrants described in section $101(a)(15)(L)$ may
24	not exceed—

1	"(I) 75 percent of the total number of em-
2	ployees, for fiscal year 2015;
3	"(II) 65 percent of the total number of
4	employees, for fiscal year 2016; and
5	"(III) 50 percent of the total number of
6	employees, for each fiscal year after fiscal year
7	2016.
8	"(ii) In this subparagraph:
9	"(I) The term 'educational or research em-
10	ployer' means an employer that is a nonprofit
11	institution of higher education or a nonprofit
12	research organization described in section
13	501(c)(3) of the Internal Revenue Code of 1986
14	and exempt from taxation under 501(a) of that
15	Code.
16	"(II) The term 'H-1B nonimmigrant'
17	means an alien admitted as a nonimmigrant
18	pursuant to section $101(a)(15)(H)(i)(b)$.
19	"(III) The term 'L nonimmigrant' means
20	an alien admitted as a nonimmigrant pursuant
21	to section 101(a)(15)(L) to provide services to
22	his or her employer involving specialized knowl-
23	edge.
24	"(iii) In determining the percentage of employ-
25	ees of an employer that are H-1B nonimmigrants or

1	L nonimmigrants under clause (i), an intending im-
2	migrant employee shall not count toward such per-
3	centage.
4	"(J) The employer shall submit to the Sec-
5	retary of Homeland Security an annual report that
6	includes the Internal Revenue Service Form W-2
7	Wage and Tax Statement filed by the employer for
8	each H–1B nonimmigrant employed by the employer
9	during the previous year.".
10	SEC. 4214. APPLICATION REVIEW REQUIREMENTS.
11	(a) Technical Amendment.—Section 212(n)(1) (8
12	U.S.C. 1182(n)(1)), as amended by section 4213, is fur-
13	ther amended in the undesignated paragraph at the end
14	by striking "The employer" and inserting the following
15	"(K) The employer".
16	(b) Application Review Requirements.—Sub-
17	paragraph (K) of such section 212(n)(1), as designated
18	by subsection (a), is amended—
19	(1) by inserting "and through the Department
20	of Labor's website, without charge." after "D.C.";
21	(2) by striking "only for completeness" and in-
22	serting "for completeness and evidence of fraud or
23	misrepresentation of material fact,";
24	(3) by striking "or obviously inaccurate" and
25	inserting ", presents evidence of fraud or misrepre-

1	sentation of material fact, or is obviously inac-
2	curate'';
3	(4) by striking "within 7 days of the" and in-
4	serting "not later than 14 days after"; and
5	(5) by adding at the end the following: "If the
6	Secretary's review of an application identifies evi-
7	dence of fraud or misrepresentation of material fact,
8	the Secretary may conduct an investigation and
9	hearing in accordance with paragraph (2).".
10	(c) Filing of Petition for Nonimmigrant
11	Worker.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as
12	amended by section 4213, is further amended by adding
13	at the end the following:
14	"(L) An I–129 Petition for Nonimmigrant
15	Worker (or similar successor form)—
16	"(i) may be filed by an employer with the
17	Secretary of Homeland Security prior to the
18	date the employer receives an approved certifi-
19	cation described in section $101(a)(15)(H)(i)(b)$
20	from the Secretary of Labor; and
21	"(ii) may not be approved by the Secretary
22	of Homeland Security until the date such cer-
23	tification is approved.".

1	CHAPTER 2—INVESTIGATION AND DIS-
2	POSITION OF COMPLAINTS AGAINST
3	H-1B EMPLOYERS
4	SEC. 4221. GENERAL MODIFICATION OF PROCEDURES FOR
5	INVESTIGATION AND DISPOSITION.
6	Section 212(n) (8 U.S.C. 1182(n)) is amended—
7	(1) in paragraph $(2)(A)$ —
8	(A) by striking "(A) Subject" and insert-
9	ing "(A)(i) Subject";
10	(B) by inserting after the first sentence
11	the following: "Such process shall include publi-
12	cizing a dedicated toll-free number and publicly
13	available Internet website for the submission of
14	such complaints.";
15	(C) by striking "12 months" and inserting
16	"24 months";
17	(D) by striking the last sentence and in-
18	serting the following: "The Secretary shall issue
19	regulations requiring that employers that em-
20	ploy H–1B nonimmigrants, other than non-
21	profit institutions of higher education and non-
22	profit research organizations, through posting
23	of notices or other appropriate means, inform
24	their employees of such toll-free number and

1	Internet website and of their right to file com-
2	plaints pursuant to this paragraph."; and
3	(E) by adding at the end the following:
4	"(ii)(I) Upon the receipt of such a com-
5	plaint, the Secretary may initiate an investiga-
6	tion to determine if such a failure or misrepre-
7	sentation has occurred.
8	"(II) The Secretary may conduct voluntary
9	surveys of the degree to which employers com-
10	ply with the requirements of this subsection.
11	"(III) The Secretary shall—
12	"(aa) conduct annual compliance au-
13	dits of each employer with more than 100
14	employees who work in the United States
15	if more than 15 percent of such employees
16	are H-1B nonimmigrants; and
17	"(bb) make available to the public an
18	executive summary or report describing the
19	general findings of the audits carried out
20	pursuant to this subclause."; and
21	(2) by adding at the end the following new
22	paragraph:
23	"(6) Report required.—Not later than 1
24	year after the date of the enactment of the Border
25	Security, Economic Opportunity, and Immigration

1	Modernization Act, and every 5 years thereafter, the
2	Inspector General of the Department of Labor shall
3	submit a report regarding the Secretary's enforce-
4	ment of the requirements of this section to the Com-
5	mittee on the Judiciary and the Committee on
6	Health, Education, Labor, and Pensions of the Sen-
7	ate and the Committee on the Judiciary and the
8	Committee on Education and the Workforce of the
9	House of Representatives.".
10	SEC. 4222. INVESTIGATION, WORKING CONDITIONS, AND
11	PENALTIES.
12	Subparagraph (C) of section 212(n)(2) (8 U.S.C.
13	1182(n)(2)) is amended—
14	(1) in clause (i)—
15	(A) in the matter preceding subclause
16	(I)—
17	(i) by striking "a condition of para-
18	graph $(1)(B)$, $(1)(E)$, or $(1)(F)$ " and in-
19	serting "a condition under subparagraph
20	(A), (B), (C)(i), (E), (F), (G), (H), (I), or
21	(J) of paragraph (1)"; and
22	(ii) by striking "(1)(C)" and inserting
23	"(1)(C)(ii)";
24	(B) in subclause (I)—

1	(i) by striking "\$1,000" and inserting
2	"\$2,000"; and
3	(ii) by striking "and" at the end;
4	(C) in subclause (II), by striking the pe-
5	riod at the end and inserting a semicolon and
6	"and"; and
7	(D) by adding at the end the following:
8	"(III) an employer that violates such subpara-
9	graph (A) shall be liable to any employee harmed by
10	such violations for lost wages and benefits."; and
11	(2) in clause (ii)—
12	(A) in subclause (I)—
13	(i) by striking "may" and inserting
14	"shall"; and
15	(ii) by striking "\$5,000" and insert-
16	ing "\$10,000";
17	(B) in subclause (II), by striking the pe-
18	riod at the end and inserting a semicolon and
19	"and"; and
20	(C) by adding at the end the following:
21	"(III) an employer that violates such subpara-
22	graph (A) shall be liable to any employee harmed by
23	such violations for lost wages and benefits.";
24	(3) in clause (iii)—

1	(A) in the matter preceding subclause (I),
2	by striking "90 days" both places it appears
3	and inserting "180 days";
4	(B) in subclause (I)—
5	(i) by striking "may" and inserting
6	"shall"; and
7	(ii) by striking "and" at the end;
8	(C) in subclause (II), by striking the pe-
9	riod at the end and inserting a semicolon and
10	"and"; and
11	(D) by adding at the end the following:
12	"(III) an employer that violates subparagraph
13	(A) of such paragraph shall be liable to any em-
14	ployee harmed by such violations for lost wages and
15	benefits.";
16	(4) in clause (iv)—
17	(A) by inserting "to take, or threaten to
18	take, a personnel action, or" before "to intimi-
19	date'';
20	(B) by inserting "(I)" after "(iv)"; and
21	(C) by adding at the end the following:
22	"(II) An employer that violates this clause shall
23	be liable to any employee harmed by such violation
24	for lost wages and benefits."; and
25	(5) in clause (vi)—

1	(A) by amending subclause (I) to read as
2	follows:
3	"(I) It is a violation of this clause for an em-
4	ployer who has filed an application under this sub-
5	section—
6	"(aa) to require an H–1B nonimmigrant to
7	pay a penalty for ceasing employment with the
8	employer prior to a date agreed to by the non-
9	immigrant and the employer (the Secretary
10	shall determine whether a required payment is
11	a penalty, and not liquidated damages, pursu-
12	ant to relevant State law); and
13	"(bb) to fail to offer to an H–1B non-
14	immigrant, during the nonimmigrant's period of
15	authorized employment, on the same basis, and
16	in accordance with the same criteria, as the em-
17	ployer offers to similarly situated United States
18	workers, benefits and eligibility for benefits, in-
19	cluding—
20	"(AA) the opportunity to participate
21	in health, life, disability, and other insur-
22	ance plans;
23	"(BB) the opportunity to participate
24	in retirement and savings plans; and

1	"(CC) cash bonuses and noncash com-
2	pensation, such as stock options (whether
3	or not based on performance)."; and
4	(B) in subclause (III), by striking
5	"\$1,000" and inserting "\$2,000".
6	SEC. 4223. INITIATION OF INVESTIGATIONS.
7	Subparagraph (G) of section 212(n)(2) (8 U.S.C.
8	1182(n)(2)) is amended—
9	(1) in clause (i), by striking "if the Secretary"
10	and all that follows and inserting "with regard to
11	the employer's compliance with the requirements of
12	this subsection.";
13	(2) in clause (ii), by striking "and whose iden-
14	tity" and all that follows through "failure or fail-
15	ures." and inserting "the Secretary of Labor may
16	conduct an investigation into the employer's compli-
17	ance with the requirements of this subsection.";
18	(3) in clause (iii), by striking the last sentence;
19	(4) by striking clauses (iv) and (v);
20	(5) by redesignating clauses (vi), (vii), and (viii)
21	as clauses (iv), (v), and (vi), respectively;
22	(6) in clause (iv), as so redesignated, by strik-
23	ing "meet a condition described in clause (ii), unless
24	the Secretary of Labor receives the information not
25	later than 12 months" and inserting "comply with

the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months";

- (7) by amending clause (v), as so redesignated, to read as follows:
- "(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.";
- (8) in clause (vi), as so redesignated, by striking "An investigation" and all that follows through "the determination." and inserting "If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the

- 1 Secretary shall provide interested parties with notice
- 2 of such determination and an opportunity for a
- 3 hearing in accordance with section 556 of title 5,
- 4 United States Code, not later than 120 days after
- 5 the date of such determination."; and
- 6 (9) by adding at the end the following:
- 7 "(vii) If the Secretary of Labor, after a hear-
- 8 ing, finds a reasonable basis to believe that the em-
- 9 ployer has violated the requirements under this sub-
- section, the Secretary shall impose a penalty under
- subparagraph (C).".

12 SEC. 4224. INFORMATION SHARING.

- 13 Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended
- 14 by sections 4222 and 4223, is further amended by adding
- 15 at the end the following:
- 16 "(J) The Director of U.S. Citizenship and Immigra-
- 17 tion Services shall provide the Secretary of Labor with any
- 18 information contained in the materials submitted by em-
- 19 ployers of H–1B nonimmigrants as part of the adjudica-
- 20 tion process that indicates that the employer is not com-
- 21 plying with visa program requirements for H-1B non-
- 22 immigrants. The Secretary of Labor may initiate and con-
- 23 duct an investigation related to H–1B nonimmigrants and
- 24 a hearing under this paragraph after receiving information
- 25 of noncompliance under this subparagraph. This subpara-

1	graph may not be construed to prevent the Secretary of
2	Labor from taking action related to wage and hour and
3	workplace safety laws.
4	"(K) The Secretary of Labor shall facilitate the post-
5	ing of the descriptions described in paragraph $(1)(C)(i)$
6	on the Internet website of the State labor or workforce
7	agency for the State in which the position will be primarily
8	located during the same period as the posting under para-
9	graph (1)(C)(i).".
10	SEC. 4225. TRANSPARENCY OF HIGH-SKILLED IMMIGRA-
11	TION PROGRAMS.
12	Section 416(c) of the American Competitiveness and
13	Workforce Improvement Act of 1998 (8 U.S.C. 1184 note)
14	is amended—
15	(1) by amending paragraph (2) to read as fol-
16	lows:
17	"(2) Annual H-1B nonimmigrant charac-
18	TERISTICS REPORT.—The Bureau of Immigration
19	and Labor Market Research shall submit an annual
20	report to the Committee on the Judiciary of the
21	Senate and the Committee on the Judiciary of the
22	House of Representatives that contains—
23	"(A) information on the countries of origin
24	
	of, occupations of, educational levels attained

1	issued visas or otherwise provided non-
2	immigrant status under section
3	101(a)(15)(H)(i)(b) of the Immigration and
4	Nationality Act (8 U.S.C.
5	1101(a)(15)(H)(i)(b)) during the previous fiscal
6	year;
7	"(B) a list of all employers who petition
8	for H–1B visas, the number of such petitions
9	filed and approved for each such employer, the
10	occupational classifications for the approved po-
11	sitions, and the number of H-1B non-
12	immigrants for whom each such employer files
13	for adjustment to permanent resident status;
14	"(C) the number of immigrant status peti-
15	tions filed during the prior year on behalf of H-
16	1B nonimmigrants;
17	"(D) a list of all employers who are H-1B-
18	dependent employers;
19	"(E) a list of all employers who are H-1B
20	skilled worker dependent employers;
21	"(F) a list of all employers for whom more
22	than 30 percent of their United States work-
23	force is H-1B or L-1 nonimmigrants:

1	"(G) a list of all employers for whom more
2	than 50 percent of their United States work-
3	force is H–1B or L–1 nonimmigrants;
4	"(H) a gender breakdown by occupation
5	and by country of H-1B nonimmigrants;
6	"(I) a list of all employers who have been
7	approved to conduct outplacement of H–1B
8	nonimmigrants; and
9	"(J) the number of H–1B nonimmigrants
10	categorized by their highest level of education
11	and whether such education was obtained in the
12	United States or in a foreign country.";
13	(2) by redesignating paragraph (3) as para-
14	graph (5);
15	(3) by inserting after paragraph (2) the fol-
16	lowing:
17	"(3) Annual L-1 nonimmigrant character-
18	ISTICS REPORT.—The Bureau of Immigration and
19	Labor Market Research shall submit an annual re-
20	port to the Committee on the Judiciary of the Sen-
21	ate and the Committee on the Judiciary of the
22	House of Representatives that contains—
23	"(A) information on the countries of origin
24	of, occupations of, educational levels attained
25	by, and compensation paid to, aliens who were

1	issued visas or otherwise provided –non-
2	immigrant status under section 101(a)(15)(L)
3	of the Immigration and Nationality Act (8
4	U.S.C. 1101(a)(15)(L)) during the previous fis-
5	cal year;
6	"(B) a list of all employers who petition
7	for L-1 visas, the number of such petitions
8	filed and approved for each such employer, the
9	occupational classifications for the approved po-
10	sitions, and the number of L-1 nonimmigrants
11	for whom each such employer files for adjust-
12	ment to permanent resident status;
13	"(C) the number of immigrant status peti-
14	tions filed during the prior year on behalf of L–
15	1 nonimmigrants;
16	"(D) a list of all employers who are L-1
17	dependent employers;
18	"(E) a gender breakdown by occupation
19	and by country of L-1 nonimmigrants;
20	"(F) a list of all employers who have been
21	approved to conduct outplacement of L-1 non-
22	immigrants; and
23	"(G) the number of L-1 nonimmigrants
24	categorized by their highest level of education

1	and whether such education was obtained in the
2	United States or in a foreign country.
3	"(4) Annual Employer Survey.—The Bu-
4	reau of Immigration and Labor Market Research
5	shall—
6	"(A) conduct an annual survey of employ-
7	ers hiring foreign nationals under the L-1 visa
8	program; and
9	"(B) shall issue an annual report that—
10	"(i) describes the methods employers
11	are using to meet the requirement of tak-
12	ing good faith steps to recruit United
13	States workers for the occupational classi-
14	fication for which the nonimmigrants are
15	sought, using procedures that meet indus-
16	try-wide standards;
17	"(ii) describes the best practices for
18	recruiting among employers; and
19	"(iii) contains recommendations on
20	which recruiting steps employers can take
21	to maximize the likelihood of hiring Amer-
22	ican workers."; and
23	(4) in paragraph (5), as redesignated, by strik-
24	ing "paragraph (2)" and inserting "paragraphs (2)
25	and (3)".

1 CHAPTER 3—OTHER PROTECTIONS

- 2 SEC. 4231. POSTING AVAILABLE POSITIONS THROUGH THE
- 3 **DEPARTMENT OF LABOR.**
- 4 (a) Department of Labor Website.—Section
- 5 212(n) (8 U.S.C. 1182(n)), as amended by section
- 6 4221(2), is further amended by adding at the end fol-
- 7 lowing:
- 8 "(7)(A) Not later than 90 days after the date of the
- 9 enactment of the Border Security, Economic Opportunity,
- 10 and Immigration Modernization Act, the Secretary of
- 11 Labor shall establish a searchable Internet website for
- 12 posting positions as required by paragraph (1)(C). Such
- 13 website shall be available to the public without charge.
- 14 "(B) The Secretary may work with private companies
- 15 or nonprofit organizations to develop and operate the
- 16 Internet website described in subparagraph (A).
- 17 "(C) The Secretary may promulgate rules, after no-
- 18 tice and a period for comment, to carry out the require-
- 19 ments of this paragraph.".
- 20 (b) REQUIREMENT FOR PUBLICATION.—The Sec-
- 21 retary of Labor shall submit to Congress and publish in
- 22 the Federal Register and other appropriate media a notice
- 23 of the date that the Internet website required by para-
- 24 graph (6) of section 212(n) of the Immigration and Na-

1	tionality Act, as amended by subsection (a), will be oper-
2	ational.
3	(c) APPLICATION.—The amendments made by sub-
4	section (a) shall apply to an application filed on or after
5	the date that is 30 days after the date described in sub-
6	section (b).
7	SEC. 4232. REQUIREMENTS FOR INFORMATION FOR H-1B
8	AND L NONIMMIGRANTS.
9	(a) In General.—Section 214 (8 U.S.C. 1184), as
10	amended by section 3608, is further amended by adding
11	at the end the following:
12	"(t) Requirements for Information for H–1B
13	AND L NONIMMIGRANTS.—
14	"(1) In general.—Upon issuing a visa to an
15	applicant for nonimmigrant status pursuant to sub-
16	paragraph $(H)(i)(b)$ or (L) of section $101(a)(15)$
17	who is outside the United States, the issuing office
18	shall provide the applicant with—
19	"(A) a brochure outlining the obligations
20	of the applicant's employer and the rights of
21	the applicant with regard to employment under
22	Federal law, including labor and wage protec-
23	tions; and
24	"(B) the contact information for appro-
25	priate Federal agencies or departments that

1	offer additional information or assistance in
2	clarifying such obligations and rights.
3	"(2) Provision of Material.—Upon the ap-
4	proval of an application of an applicant referred to
5	in paragraph (1), the applicant shall be provided
6	with the material described in subparagraphs (A)
7	and (B) of paragraph (1)—
8	"(A) by the issuing officer of the Depart-
9	ment of Homeland Security, if the applicant is
10	inside the United States; or
11	"(B) by the appropriate official of the De-
12	partment of State, if the applicant is outside
13	the United States.
14	"(3) Employer to provide immigration pa-
15	PERWORK EXCHANGED WITH FEDERAL AGENCIES.—
16	"(A) IN GENERAL.—Not later than 30
17	days after a labor condition application is filed
18	under section 212(n)(1), an employer shall pro-
19	vide an employee or beneficiary of such applica-
20	tion who is or seeking nonimmigrant status
21	under subparagraph (H)(i)(b) or (L) of section
22	101(a)(15) with a copy the original of all appli-
23	cations and petitions filed by the employer with
24	the Department of Labor or the Department of

1	Homeland Security for such employee or bene-
2	ficiary.
3	"(B) WITHHOLDING OF FINANCIAL OR
4	PROPRIETARY INFORMATION.—If a document
5	required to be provided to an employee or bene-
6	ficiary under subparagraph (A) includes any fi-
7	nancial or propriety information of the em-
8	ployer, the employer may redact such informa-
9	tion from the copies provided to such employee
10	or beneficiary.".
11	(b) REPORT ON JOB CLASSIFICATION AND WAGE
12	DETERMINATIONS.—Not later than 1 year after the date
13	of the enactment of this Act, the Comptroller General of
14	the United States shall prepare a report analyzing the ac-
15	curacy and effectiveness of the Secretary of Labor's cur-
16	rent job classification and wage determination system. The
17	report shall—
18	(1) specifically address whether the systems in
19	place accurately reflect the complexity of current job
20	types as well as geographic wage differences; and
21	(2) make recommendations concerning nec-
22	essary updates and modifications.
23	SEC. 4233. FILING FEE FOR H-1B-DEPENDENT EMPLOYERS.
24	(a) In General.—Notwithstanding any other provi-
25	sion of law, there shall be a fee required to be submitted

1	by an employer with an application for admission of an
2	H–1B nonimmigrant as follows:
3	(1) For each fiscal year beginning in fiscal year
4	2015, \$5,000 for applicants that employ 50 or more
5	employees in the United States if more than 30 per-
6	cent and less than 50 percent of the applicant's em-
7	ployees are H–1B nonimmigrants or L non-
8	immigrants.
9	(2) For each of the fiscal years 2015 through
10	2017, \$10,000 for applicants that employ 50 or
11	more employees in the United States if more than
12	50 percent and less than 75 percent of the appli-
13	cant's employees are H–1B nonimmigrants or L
14	nonimmigrants. Fees collected under this paragraph
15	shall be deposited in the Comprehensive Immigration
16	Reform Trust Fund established under section
17	6(a)(1).
18	(b) Definitions.—In this section:
19	(1) Employer.—The term "employer"—
20	(A) means any entity or entities treated as
21	a single employer under subsection (b), (c)
22	(m), or (o) of section 414 of the Internal Rev-
23	enue Code of 1986; and
24	(B) does not include a nonprofit institution
25	of higher education or a nonprofit research or.

1	ganization described in section 501(c)(3) of the
2	Internal Revenue Code of 1986 and exempt
3	from taxation under 501(a) of that Code that
4	is—
5	(i) an institution of higher education
6	(as defined in section 101(a) of the Higher
7	Education Act of 1965 (20 U.S.C.
8	1001(a))); or
9	(ii) a research organization.
10	(2) H–1B NONIMMIGRANT.—The term "H–1B
11	nonimmigrant" means an alien admitted as a non-
12	immigrant pursuant to section $101(a)(15)(H)(i)(b)$
13	of the Immigration and Nationality Act (8 U.S.C.
14	1101(a)(15)(H)(i)(b)).
15	(3) Intending immigrant.—The term "in-
16	tending immigrant" has the meaning given that
17	term in paragraph (54)(A) of section 101(a)(54)(A)
18	of the Immigration and Nationality Act (8 U.S.C.
19	1101(a)).
20	(4) L NONIMMIGRANT.—The term "L non-
21	immigrant" means an alien admitted as a non-
22	immigrant pursuant to section 101(a)(15)(L) of the
23	Immigration and Nationality Act (8 U.S.C.
24	1101(a)(15)(L)) to provide services to the alien's
25	employer involving specialized knowledge.

1	(c) Exception for Intending Immigrants.—In
2	determining the percentage of employees of an employee
3	that are H–1B nonimmigrants or L nonimmigrants under
4	subsection (a), an intending immigrant employee shall not
5	count toward such percentage.
6	(d) Conforming Amendment.—Section 402 of the
7	Act entitled "An Act making emergency supplemental ap-
8	propriations for border security for the fiscal year ending
9	September 30, 2010, and for other purposes", approved
10	August 13, 2010 (Public Law 111–230; 8 U.S.C. 1101
11	note) is amended by striking subsection (b).
12	SEC. 4234. PROVIDING PREMIUM PROCESSING OF EMPLOY
13	MENT-BASED VISA PETITIONS.
13 14	MENT-BASED VISA PETITIONS. Pursuant to section 286(u) of the Immigration and
14	Pursuant to section 286(u) of the Immigration and
14 15	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall
14 15 16	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect—
14 15 16 17	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect— (1) a fee for premium processing of employ-
14 15 16 17	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect— (1) a fee for premium processing of employment-based immigrant petitions; and
114 115 116 117 118	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect— (1) a fee for premium processing of employment-based immigrant petitions; and (2) a fee for premium processing of an administration of the Immigration and establish and collect— (2) a fee for premium processing of an administration and establish and collect— (3) a fee for premium processing of an administration and establish and collect— (4) a fee for premium processing of an administration and establish and collect— (5) a fee for premium processing of an administration and establish and collect— (6) a fee for premium processing of an administration and establish and collect— (8) a fee for premium processing of an administration and establish and collect— (9) a fee for premium processing of an administration and establish
114 115 116 117 118 119 220	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect— (1) a fee for premium processing of employment-based immigrant petitions; and (2) a fee for premium processing of an administrative appeal of any decision on a permanent employment.
14 15 16 17 18 19 20 21	Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary shall establish and collect— (1) a fee for premium processing of employment-based immigrant petitions; and (2) a fee for premium processing of an administrative appeal of any decision on a permanent employment-based immigrant petition.

1(b)(2)(B) of the Act entitled "An Act to amend and ex-

1	tend the Irish Peace Process Cultural and Training Pro-
2	gram Act of 1998" (Public Law 108–449 (118 Stat.
3	3470)), as subsection (u).
4	SEC. 4236. APPLICATION.
5	(a) In General.—Except as otherwise specifically
6	provided, the amendments made by this subtitle shall
7	apply to applications filed on or after the date of the en-
8	actment of this Act.
9	(b) Special Requirements.—Notwithstanding any
10	other provision of law, the amendments made by section
11	4211(c) shall not apply to any application or petition filed
12	by an employer on behalf of an existing employee.
13	SEC. 4237. PORTABILITY FOR BENEFICIARIES OF IMMI-
13 14	SEC. 4237. PORTABILITY FOR BENEFICIARIES OF IMMIGRANT PETITIONS.
14 15	GRANT PETITIONS.
14 15	GRANT PETITIONS. (a) Increased Portability.—Section 204(j) (8)
141516	GRANT PETITIONS. (a) INCREASED PORTABILITY.—Section 204(j) (8 U.S.C. 1154(j)) is amended—
14151617	GRANT PETITIONS. (a) INCREASED PORTABILITY.—Section 204(j) (8 U.S.C. 1154(j)) is amended— (1) by amending the subsection heading to read
14 15 16 17 18	GRANT PETITIONS. (a) Increased Portability.—Section 204(j) (8 U.S.C. 1154(j)) is amended— (1) by amending the subsection heading to read as follows:
141516171819	GRANT PETITIONS. (a) Increased Portability.—Section 204(j) (8 U.S.C. 1154(j)) is amended— (1) by amending the subsection heading to read as follows: "(j) Increased Portability.—";
14151617181920	GRANT PETITIONS. (a) Increased Portability.—Section 204(j) (8 U.S.C. 1154(j)) is amended— (1) by amending the subsection heading to read as follows: "(j) Increased Portability.—"; (2) by striking "A petition" and inserting the
14 15 16 17 18 19 20 21	GRANT PETITIONS. (a) Increased Portability.—Section 204(j) (8 U.S.C. 1154(j)) is amended— (1) by amending the subsection heading to read as follows: "(j) Increased Portability.—"; (2) by striking "A petition" and inserting the following:

1	"(2) Portability for Beneficiaries of im-
2	MIGRANT PETITIONS.—Regardless of whether an em-
3	ployer withdraws a petition approved under para-
4	graph (1), (2), or (3) of section 203(b)—
5	"(A) the petition shall remain valid with
6	respect to a new job if—
7	"(i) the beneficiary changes jobs or
8	employers after the petition is approved;
9	and
10	"(ii) the new job is in the same or a
11	similar occupational classification as the
12	job for which the petition was approved;
13	and
14	"(B) the employer's legal obligations with
15	respect to the petition shall terminate at the
16	time the beneficiary changes jobs or employers.
17	"(3) Documentation.—The Secretary of
18	Labor shall develop a mechanism to provide the ben-
19	eficiary or prospective employer with sufficient infor-
20	mation to determine whether a new position or job
21	is in the same or similar occupation as the job for
22	which the petition was approved. The Secretary of
23	Labor shall provide confirmation of application ap-
24	proval if required for eligibility under this sub-
25	section. The Secretary of Homeland Security shall

- 1 provide confirmation of petition approval if required
- 2 for eligibility under this subsection.".
- 3 (b) Adjustment of Status for Employment-
- 4 BASED IMMIGRANTS.—Section 245 of the Immigration
- 5 and Nationality Act (8 U.S.C. 1255) is amended by add-
- 6 ing at the end the following:
- 7 "(n) Adjustment of Status for Employment-
- 8 BASED IMMIGRANTS.—
- 9 "(1) Petition.—An alien, and any eligible de-10 pendents of such alien, who has filed a petition for 11 immigrant status, may concurrently, or at any time 12 thereafter, file an application with the Secretary of 13 Homeland Security for adjustment of status if such 14 petition is pending or has been approved, regardless 15 of whether an immigrant visa is immediately avail-

able at the time the application is filed.

"(2) Supplemental fee.—If a visa is not immediately available at the time an application is filed under paragraph (1), the beneficiary of such application shall pay a supplemental fee of \$500, which shall be deposited in the STEM Education and Training Account established under section 286(w). This fee shall not be collected from any dependent accompanying or following to join such beneficiary.

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1	"(3) Availability.—An application filed pur-
2	suant to paragraph (2) may not be approved until
3	the date on which an immigrant visa becomes avail-
4	able.".
5	Subtitle C—L Visa Fraud and
6	Abuse Protections
7	SEC. 4301. PROHIBITION ON OUTPLACEMENT OF L NON-
8	IMMIGRANTS.
9	Section $214(c)(2)(F)$ (8 U.S.C. $1184(c)(2)(F)$) is
10	amended to read as follows:
11	"(F)(i) An employer who employs L-1 non-
12	immigrants in a number that is equal to at least 15 per-
13	cent of the total number of full-time equivalent employees
14	employed by the employer shall not place, outsource, lease,
15	or otherwise contract for the services or placement of such
16	alien with another employer. In determining the number
17	of employees who are L-1 nonimmigrants, an intending
18	immigrant shall count as a United States worker.
19	"(ii) The employer of an alien described in section
20	101(a)(15)(L) shall not place, outsource, lease, or other-
21	wise contract for the services or placement of such alien
22	with another employer unless—
23	"(I) such alien will not be controlled or super-
24	vised principally by the employer with whom such
25	alien would be placed:

1	"(II) the placement of such alien at the work-
2	site of the other employer is not essentially an ar-
3	rangement to provide labor for hire for the other
4	employer; and
5	"(III) the employer of such alien pays a fee of
6	\$500, which shall be deposited in the STEM Edu-
7	cation and Training Account established under sec-
8	tion 286(w).".
9	SEC. 4302. L EMPLOYER PETITION REQUIREMENTS FOR
10	EMPLOYMENT AT NEW OFFICES.
11	Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended
12	by adding at the end the following:
13	"(G)(i) If the beneficiary of a petition under this
14	paragraph is coming to the United States to open, or be
15	employed in, a new office, the petition may be approved
16	for up to 12 months only if—
17	"(I) the alien has not been the beneficiary of 2
18	or more petitions under this subparagraph during
19	the immediately preceding 2 years; and
20	"(II) the employer operating the new office
21	has—
22	"(aa) an adequate business plan;
23	"(bb) sufficient physical premises to carry
24	out the proposed business activities; and

1	"(cc) the financial ability to commence
2	doing business immediately upon the approval
3	of the petition.
4	"(ii) An extension of the approval period under clause
5	(i) may not be granted until the importing employer sub-
6	mits an application to the Secretary of Homeland Security
7	that contains—
8	"(I) evidence that the importing employer
9	meets the requirements of this subsection;
10	"(II) evidence that the beneficiary of the peti-
11	tion is eligible for nonimmigrant status under sec-
12	tion 101(a)(15)(L);
13	"(III) a statement summarizing the original pe-
14	tition;
15	"(IV) evidence that the importing employer has
16	complied with the business plan submitted under
17	clause (i)(I);
18	"(V) evidence of the truthfulness of any rep-
19	resentations made in connection with the filing of
20	the original petition;
21	"(VI) evidence that the importing employer has
22	been doing business at the new office through reg-
23	ular, systematic, and continuous provision of goods
24	and services;

1	"(VII) a statement of the duties the beneficiary
2	has performed at the new office during the approval
3	period under clause (i) and the duties the beneficiary
4	will perform at the new office during the extension
5	period granted under this clause;
6	"(VIII) a statement describing the staffing at
7	the new office, including the number of employees
8	and the types of positions held by such employees;
9	"(IX) evidence of wages paid to employees;
10	"(X) evidence of the financial status of the new
11	office; and
12	"(XI) any other evidence or data prescribed by
13	the Secretary.
14	"(iii) A new office employing the beneficiary of an
15	L–1 petition approved under this paragraph shall do busi-
16	ness only through regular, systematic, and continuous pro-
17	vision of goods and services.
18	"(iv) Notwithstanding clause (ii), and subject to the
19	maximum period of authorized admission set forth in sub-
20	paragraph (D), the Secretary of Homeland Security, in
21	the Secretary's discretion, may approve a subsequently
22	filed petition on behalf of the beneficiary to continue em-
23	ployment at the office described in this subparagraph for
24	a period beyond the initially granted 12-month period if
25	the importing employer has been doing business at the

- 1 new office through regular, systematic, and continuous
- 2 provision of goods and services for the 6 months imme-
- 3 diately preceding the date of extension of petition filing
- 4 and demonstrates that the failure to satisfy any of the
- 5 requirements described in those subclauses was directly
- 6 caused by extraordinary circumstances, as determined by
- 7 the Secretary in the Secretary's discretion.".
- 8 SEC. 4303. COOPERATION WITH SECRETARY OF STATE.
- 9 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
- 10 by section 4302, is further amended by adding at the end
- 11 the following:
- 12 "(H) For purposes of approving petitions under this
- 13 paragraph, the Secretary of Homeland Security shall work
- 14 cooperatively with the Secretary of State to verify the ex-
- 15 istence or continued existence of a company or office in
- 16 the United States or in a foreign country.".
- 17 SEC. 4304. LIMITATION ON EMPLOYMENT OF L NON-
- 18 **IMMIGRANTS.**
- 19 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
- 20 by sections 4302 and 4303, is further amended by adding
- 21 at the end the following:
- 22 "(I)(i) If the employer employs 50 or more employees
- 23 in the United States, the sum of the number of such em-
- 24 ployees who are H–1B nonimmigrants plus the number

1	of such employees who are L nonimmigrants may not ex-
2	ceed—
3	"(I) 75 percent of the total number of employ-
4	ees, for fiscal year 2015;
5	"(II) 65 percent of the total number of employ-
6	ees, for fiscal year 2016; and
7	"(III) 50 percent of the total number of em-
8	ployees, for each fiscal year after fiscal year 2016.
9	"(ii) In this subparagraph:
10	"(I) The term 'employer' does not include a
11	nonprofit institution of higher education or a non-
12	profit research organization described in section
13	501(c)(3) of the Internal Revenue Code of 1986 and
14	exempt from taxation under 501(a) of that Code
15	that is—
16	"(aa) an institution of higher education (as
17	defined in section 101(a) of the Higher Edu-
18	cation Act of 1965 (20 U.S.C. 1001(a))); or
19	"(bb) a research organization.
20	"(II) The term 'H–1B nonimmigrant' means an
21	alien admitted as a nonimmigrant pursuant to sec-
22	tion $101(a)(15)(H)(i)(b)$.
23	"(III) The term 'L nonimmigrant' means an
24	alien admitted as a nonimmiorant nursuant to see.

- 1 tion 101(a)(15)(L) to provide services to the alien's
- 2 employer involving specialized knowledge.
- 3 "(iii) In determining the percentage of employees of
- 4 an employer that are H-1B nonimmigrants or L non-
- 5 immigrants under clause (i), an intending immigrant em-
- 6 ployee shall not count toward such percentage.".

7 SEC. 4305. FILING FEE FOR L NONIMMIGRANTS.

- 8 (a) In General.—Notwithstanding any other provi-
- 9 sion of law, the filing fee for an application for admission
- 10 of an L nonimmigrant shall be as follows:
- 11 (1) For each of the fiscal years beginning in fis-
- cal year 2014, \$5,000 for applicants that employ 50
- or more employees in the United States if more than
- 14 30 percent and less than 50 percent of the appli-
- cant's employees are H–1B nonimmigrants or L
- 16 nonimmigrants.
- 17 (2) For each of the fiscal years 2014 through
- 18 2017, \$10,000 for applicants that employ 50 or
- more employees in the United States if more than
- 50 percent and less than 75 percent of the appli-
- 21 cant's employees are H–1B nonimmigrants or L
- 22 nonimmigrants. Fees collected under this paragraph
- shall be deposited in the Comprehensive Immigration
- 24 Reform Trust Fund established under section
- 25 6(a)(1).

1	(b) DEFINITIONS.—In this section:
2	(1) Employer.—The term "employer" does
3	not include a nonprofit institution of higher edu-
4	cation or a nonprofit research organization described
5	in section 501(c)(3) of the Internal Revenue Code of
6	1986 and exempt from taxation under 501(a) of
7	that Code that is—
8	(A) an institution of higher education (as
9	defined in section 101(a) of the Higher Edu-
10	cation Act of 1965 (20 U.S.C. 1001(a))); or
11	(B) a research organization.
12	(2) H–1B NONIMMIGRANT.—The term "H–1B
13	nonimmigrant" means an alien admitted as a non-
14	immigrant pursuant to section $101(a)(15)(H)(i)(b)$
15	of the Immigration and Nationality Act (8 U.S.C.
16	1101(a)(15)(H)(i)(b)).
17	(3) L NONIMMIGRANT.—The term "L non-
18	immigrant" means an alien admitted as a non-
19	immigrant pursuant to section $101(a)(15)(L)$ of the
20	Immigration and Nationality Act (8 U.S.C.
21	1101(a)(15)(L)) to provide services to the alien's
22	employer involving specialized knowledge.
23	(c) Exception for Intending Immigrants.—In
24	determining the percentage of employees of an employer
25	that are H–1B nonimmigrants or L nonimmigrants under

- 1 subsection (a), an intending immigrant employee (as de-
- 2 fined in section 101(a)(54)(A) of the Immigration and Na-
- 3 tionality Act shall not count toward such percentage.
- 4 (d) Conforming Amendment.—Section 402 of the
- 5 Act entitled "An Act making emergency supplemental ap-
- 6 propriations for border security for the fiscal year ending
- 7 September 30, 2010, and for other purposes", approved
- 8 August 13, 2010 (Public Law 111–230; 8 U.S.C. 1101
- 9 note), as amended by section 4233(d), is further amended
- 10 by striking subsections (a) and (c).
- 11 SEC. 4306. INVESTIGATION AND DISPOSITION OF COM-
- 12 PLAINTS AGAINST L NONIMMIGRANT EM-
- 13 PLOYERS.
- 14 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
- 15 by sections 4302, 4303, and 4304 is further amended by
- 16 adding at the end the following:
- 17 "(J)(i) The Secretary of Homeland Security may ini-
- 18 tiate an investigation of any employer that employs non-
- 19 immigrants described in section 101(a)(15)(L) with re-
- 20 gard to the employer's compliance with the requirements
- 21 of this subsection.
- 22 "(ii)(I) If the Secretary receives specific credible in-
- 23 formation from a source who is likely to have knowledge
- 24 of an employer's practices, employment conditions, or
- 25 compliance with the requirements under this subsection,

- 1 the Secretary may conduct an investigation into the em-
- 2 ployer's compliance with the requirements of this sub-
- 3 section.
- 4 "(II) The Secretary may withhold the identity of a
- 5 source referred to in subclause (I) from an employer and
- 6 the identity of such source shall not be subject to disclo-
- 7 sure under section 552 of title 5, United States Code.
- 8 "(iii) The Secretary shall establish a procedure for
- 9 any person desiring to provide to the Secretary informa-
- 10 tion described in clause (ii)(I) that may be used, in whole
- 11 or in part, as the basis for the commencement of an inves-
- 12 tigation described in such clause, to provide the informa-
- 13 tion in writing on a form developed and provided by the
- 14 Secretary and completed by or on behalf of the person.
- 15 "(iv) No investigation described in clause (ii)(I) (or
- 16 hearing described in clause (vi) based on such investiga-
- 17 tion) may be conducted with respect to information about
- 18 a failure to comply with the requirements under this sub-
- 19 section, unless the Secretary receives the information not
- 20 later than 24 months after the date of the alleged failure.
- 21 "(v)(I) Subject to subclause (III), before commencing
- 22 an investigation of an employer under clause (i) or (ii),
- 23 the Secretary shall provide notice to the employer of the
- 24 intent to conduct such investigation.

- 1 "(II) The notice required by subclause (I) shall be
- 2 provided in such a manner, and shall contain sufficient
- 3 detail, to permit the employer to respond to the allegations
- 4 before an investigation is commenced.
- 5 "(III) The Secretary is not required to comply with
- 6 this clause if the Secretary determines that to do so would
- 7 interfere with an effort by the Secretary to investigate or
- 8 secure compliance by the employer with the requirements
- 9 of this subsection.
- 10 "(IV) There shall be no judicial review of a deter-
- 11 mination by the Secretary under this clause.
- 12 "(vi) If the Secretary, after an investigation under
- 13 clause (i) or (ii), determines that a reasonable basis exists
- 14 to make a finding that the employer has failed to comply
- 15 with the requirements under this subsection, the Secretary
- 16 shall provide the interested parties with notice of such de-
- 17 termination and an opportunity for a hearing in accord-
- 18 ance with section 556 of title 5, United States Code, not
- 19 later than 120 days after the date of such determination.
- 20 If such a hearing is requested, the Secretary shall make
- 21 a finding concerning the matter by not later than 120 days
- 22 after the date of the hearing.
- 23 "(vii) If the Secretary, after a hearing, finds a rea-
- 24 sonable basis to believe that the employer has violated the

- 1 requirements under this subsection, the Secretary shall
- 2 impose a penalty under subparagraph (K).
- 3 "(viii)(I) The Secretary may conduct voluntary sur-
- 4 veys of the degree to which employers comply with the re-
- 5 quirements under this section.
- 6 "(II) The Secretary shall—
- 7 "(aa) conduct annual compliance audits of each
- 8 employer with more than 100 employees who work
- 9 in the United States if more than 15 percent of such
- 10 employees are nonimmigrants described in
- 11 101(a)(15)(L); and
- "(bb) make available to the public an executive
- summary or report describing the general findings of
- the audits carried out pursuant to this subclause.".
- 15 SEC. 4307. PENALTIES.
- 16 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended
- 17 by sections 4302, 4303, 4304, and 4306, is further
- 18 amended by adding at the end the following:
- 19 "(K)(i) If the Secretary of Homeland Security finds,
- 20 after notice and an opportunity for a hearing, a failure
- 21 by an employer to meet a condition under subparagraph
- 22 (F), (G), or (L) or a misrepresentation of material fact
- 23 in a petition to employ 1 or more aliens as nonimmigrants
- 24 described in section 101(a)(15)(L)—

1	"(I) the Secretary shall impose such administrative
2	remedies (including civil monetary penalties in an amount
3	not to exceed \$2,000 per violation) as the Secretary deter-
4	mines to be appropriate;
5	"(II) the Secretary may not, during a period of at
6	least 1 year, approve a petition for that employer to em-
7	ploy 1 or more aliens as such nonimmigrants; and
8	"(III) in the case of a violation of subparagraph (J),
9	the employer shall be liable to the employees harmed by
10	such violation for lost wages and benefits.
11	"(ii) If the Secretary finds, after notice and an oppor-
12	tunity for a hearing, a willful failure by an employer to
13	meet a condition under subparagraph (F), (G), or (L) or
14	a willful misrepresentation of material fact in a petition
15	to employ 1 or more aliens as nonimmigrants described
16	in section 101(a)(15)(L)—
17	"(I) the Secretary shall impose such adminis-
18	trative remedies (including civil monetary penalties
19	in an amount not to exceed \$10,000 per violation)
20	as the Secretary determines to be appropriate;
21	"(II) the Secretary may not, during a period of
22	at least 2 years, approve a petition filed for that em-
23	ployer to employ 1 or more aliens as such non-
24	immigrants; and

1	"(III) in the case of a violation of subparagraph
2	(J), the employer shall be liable to the employees
3	harmed by such violation for lost wages and bene-
4	fits.".
5	SEC. 4308. PROHIBITION ON RETALIATION AGAINST L NON-
6	IMMIGRANTS.
7	Section $214(c)(2)$ (8 U.S.C. $1184(c)(2)$), as amended
8	by sections 4302, 4303, 4303, 4306, and 4307, is further
9	amended by adding at the end the following:
10	"(L)(i) It is a violation of this subparagraph for an
11	employer who has filed a petition to import 1 or more
12	aliens as nonimmigrants described in section
13	101(a)(15)(L) to take, fail to take, or threaten to take
14	or fail to take, a personnel action, or to intimidate, threat-
15	en, restrain, coerce, blacklist, discharge, or discriminate
16	in any other manner against an employee because the em-
17	ployee—
18	"(I) has disclosed information that the em-
19	ployee reasonably believes evidences a violation of
20	this subsection, or any rule or regulation pertaining
21	to this subsection; or
22	"(II) cooperates or seeks to cooperate with the
23	requirements of this subsection, or any rule or regu-
24	lation pertaining to this subsection

- 1 "(ii) In this subparagraph, the term 'employee' in-
- 2 cludes—
- 3 "(I) a current employee;
- 4 "(II) a former employee; and
- 5 "(III) an applicant for employment.".
- 6 SEC. 4309. REPORTS ON L NONIMMIGRANTS.
- 7 Section 214(c)(8) (8 U.S.C. 1184(c)(8)) is amended
- 8 by inserting "(L)," after "(H),".
- 9 SEC. 4310. APPLICATION.
- The amendments made by this subtitle shall apply to
- 11 applications filed on or after the date of the enactment
- 12 of this Act.
- 13 SEC. 4311. REPORT ON L BLANKET PETITION PROCESS.
- Not later than 6 months after the date of the enact-
- 15 ment of this Act, the Inspector General of the Department
- 16 shall submit to the Committee on the Judiciary of the Sen-
- 17 ate and the Committee on the Judiciary of the House of
- 18 Representatives a report regarding the use of blanket peti-
- 19 tions under section 214(c)(2)(A) of the Immigration and
- 20 Nationality Act (8 U.S.C. 1184(c)(2)(A)). Such report
- 21 shall assess the efficiency and reliability of the process for
- 22 reviewing such blanket petitions, including whether the
- 23 process includes adequate safeguards against fraud and
- 24 abuse.

Subtitle D—Other Nonimmigrant

2 Visas

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3	SEC	4401	NONIMM	IGRANT	VISAS	FOR	STUDENTS
,	oro.	4401		ICILAITI	VIDAG	ron	SICDENIS

- 4 (a) Authorization of Dual Intent for F Non-
- 5 immigrants Seeking Bachelor's or Graduate De-
- 6 GREES.—Section 101(a)(15)(F) (8 U.S.C.
- 7 1101(a)(15)(F)) is amended to read as follows:

8 "(F)(i) an alien having a residence in a 9 foreign country who is a bona fide student 10 qualified to pursue a full course of study and 11 who seeks to enter the United States tempo-12 rarily and solely for the purpose of pursuing 13 such a course of study consistent with section 14 214(m) at an accredited college, university, or 15 language training program, or at an established 16 seminary, conservatory, academic high school, 17 elementary school, or other academic institution 18 in the United States, particularly designated by 19 the alien and approved by the Secretary of 20 Homeland Security after consultation with the 21 Secretary of Education, which institution or 22 place of study shall have agreed to report to the 23 Secretary of Homeland Security the termination 24 of attendance of each nonimmigrant student, 25 and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, except that such an alien who is not seeking to pursue a degree that is a bachelor's degree or a graduate degree shall have a residence in a foreign country that the alien has no intention of abandoning;

- "(ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien; and
- "(iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico.".
- 18 (b) DUAL INTENT.—Section 214(h) (8 U.S.C. 19 1184(h)) is amended to read as follows:
- "(h) DUAL INTENT.—The fact that an alien is, or intends to be, the beneficiary of an application for a preference status filed under section 204, seeks a change or adjustment of status after completing a legitimate period of nonimmigrant stay, or has otherwise sought permanent residence in the United States shall not constitute evi-

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1	dence of intent to abandon a foreign residence that would
2	preclude the alien from obtaining or maintaining—
3	"(1) a visa or admission as a nonimmigrant de-
4	scribed in subparagraph (E) , $(F)(i)$, $(F)(ii)$,
5	(H)(i)(b), (H)(i)(e), (L), (O), (P), (V), or (W) of
6	section 101(a)(15); or
7	"(2) the status of a nonimmigrant described in
8	any such subparagraph.".
9	(c) Requirement of Student Visa Data Trans-
10	FER AND CERTIFICATION.—
11	(1) IN GENERAL.—The Secretary shall imple-
12	ment real-time transmission of data from the Stu-
13	dent and Exchange Visitor Information System to
14	databases used by U.S. Customs and Border Protec-
15	tion.
16	(2) Certification.—
17	(A) IN GENERAL.—Not later than 120
18	days after the date of the enactment of this
19	Act, the Secretary shall certify to Congress that
20	the transmission of data referred to in para-
21	graph (1) has been implemented.
22	(B) Temporary suspension of visa
23	ISSUANCE.—If the Secretary has not made the
24	certification referred to in subparagraph (A)
25	during the 120-day period, the Secretary shall

1	suspend issuance of visas under subparagraphs
2	(F) and (M) of section 101(a)(15) of the Immi-
3	gration and Nationality Act (8 U.S.C.
4	1101(a)(15)) until the certification is made.
5	SEC. 4402. CLASSIFICATION FOR SPECIALTY OCCUPATION
6	WORKERS FROM FREE TRADE COUNTRIES.
7	(a) Nonimmigrant Status.—Section
8	101(a)(15)(E)(8 U.S.C. 1101(a)(15)(E)) is amended—
9	(1) in the matter preceding clause (i), by insert-
10	ing ", bilateral investment treaty, or free trade
11	agreement" after "treaty of commerce and naviga-
12	tion";
13	(2) in clause (ii), by striking "or" at the end;
14	and
15	(3) by adding at the end the following:
16	"(iv) solely to perform services in a
17	specialty occupation in the United States if
18	the alien is a national of a country, other
19	than Chile, Singapore, or Australia, with
20	which the United States has entered into a
21	free trade agreement (regardless of wheth-
22	er such an agreement is a treaty of com-
23	merce and navigation) and with respect to
24	whom the Secretary of Labor determines
25	and certifies to the Secretary of Homeland

1	Security and the Secretary of State that
2	the intending employer has filed with the
3	Secretary of Labor an attestation under
4	section 212(t);
5	"(v) solely to perform services in a
6	specialty occupation in the United States if
7	the alien is a national of the Republic of
8	Korea and with respect to whom the Sec-
9	retary of Labor determines and certifies to
10	the Secretary of Homeland Security and
11	the Secretary of State that the intending
12	employer has filed with the Secretary of
13	Labor an attestation under section 212(t);
14	or•
15	"(vi) solely to perform services as an
16	employee and who has at least a high
17	school education or its equivalent, or has,
18	during the most recent 5-year period, at
19	least 2 years of work experience in an oc-
20	cupation which requires at least 2 years of
21	training or experience if the alien is a na-
22	tional of a country—
23	"(I) designated as an eligible
24	sub-Saharan African country under
25	section 104 of the African Growth

1	and Opportunity Act (19 U.S.C.
2	3703); or
3	"(II) designated as a beneficiary
4	country for purposes of the Caribbean
5	Basin Economic Recovery Act (19
6	U.S.C. 2701 et seq.);".
7	(b) Numerical Limitation.—Section 214(g)(11) (8
8	U.S.C. 1184(g)(11)) is amended—
9	(1) in subparagraph (A), by striking "section
10	101(a)(15)(E)(iii)" and inserting "clauses (iii) and
11	(vi) of section $101(a)(15)(E)$ "; and
12	(2) by amending subparagraph (B) to read as
13	follows:
14	"(B) The applicable numerical limitation referred to
15	in subparagraph (A) for each fiscal year is—
16	"(i) 10,500 for each of the nationalities identi-
17	fied in clause (iii) of section 101(a)(15)(E); and
18	"(ii) 10,500 for all aliens described in clause
19	(vi) of such section.".
20	(e) Free Trade Agreements.—Section 214(g) (8
21	U.S.C. 1184(g)) is amended by adding at the end the fol-
22	lowing:
23	"(12)(A) The free trade agreements referred to in
24	section $101(a)(15)(E)(iv)$ are defined as any free trade
25	agreement designated by the Secretary of Homeland Secu-

- 1 rity with the concurrence of the United States Trade Rep-
- 2 resentative and the Secretary of State.
- 3 "(B) The Secretary of State may not approve a num-
- 4 ber of initial applications submitted for aliens described
- 5 in clause (iv) or (v) of section 101(a)(15)(E) that is more
- 6 than 5,000 per fiscal year for each country with which
- 7 the United States has entered into a Free Trade Agree-
- 8 ment.
- 9 "(C) The applicable numerical limitation referred to
- 10 in subparagraph (A) shall apply only to principal aliens
- 11 and not to the spouses or children of such aliens.".
- 12 (d) Nonimmigrant Professionals.—Section
- 13 212(t) (8 U.S.C. 1182(t)) is amended by striking "section
- 14 101(a)(15)(E)(iii)" each place that term appears and in-
- 15 serting "clause (iv) or (v) of section 101(a)(15)(E)".
- 16 SEC. 4403. E-VISA REFORM.
- 17 (a) Nonimmigrant Category.—Section
- 18 101(a)(15)(E)(iii) (8 U.S.C. 1101(a)(15)(E)(iii)) is
- 19 amended by inserting ", or solely to perform services as
- 20 an employee and who has at least a high school education
- 21 or its equivalent, or has, within 5 years, at least 2 years
- 22 of work experience in an occupation which requires at least
- 23 2 years of training or experience if the alien is a national
- 24 of the Republic of Ireland," after "Australia".

1	(b) Temporary Admission.—Section 212(d)(3)(A)
2	(8 U.S.C. $1182(d)(3)(A)$) is amended to read as follows:
3	"(A) Except as otherwise provided in this sub-
4	section—
5	"(i) an alien who is applying for a non-
6	immigrant visa and who the consular officer
7	knows or believes to be ineligible for such visa
8	under subsection (a) (other than subparagraphs
9	(A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and
10	(E)(ii) of paragraph (3) of such subsection)—
11	"(I) after approval by the Secretary of
12	Homeland Security of a recommendation
13	by the Secretary of State or by the con-
14	sular officer that the alien be admitted
15	temporarily despite the alien's inadmis-
16	sibility, may be granted such a visa and
17	may be admitted into the United States
18	temporarily as a nonimmigrant, in the dis-
19	cretion of the Secretary of Homeland Secu-
20	rity; or
21	"(II) absent such recommendation
22	and approval, be granted a nonimmigrant
23	visa pursuant to section 101(a)(15)(E) if
24	such ineligibility is based solely on conduct
25	in violation of paragraph (6), (7), or (9) of

section 212(a) that occurred before the 1 2 date of the enactment of the Border Security, Economic Opportunity, and Immigra-3 4 tion Modernization Act; and 5 "(ii) an alien who is inadmissible under subsection (a) (other than subparagraphs 6 7 (A)(i)(I), (A)(ii), (A)(iii), (C),(E)(i), and 8 (E)(ii) of paragraph (3) of such subsection), is 9 in possession of appropriate documents or was 10 granted a waiver from such document require-11 ment, and is seeking admission, may be admitted into the United States temporarily as a 12 13 nonimmigrant, in the discretion of the Sec-14 retary of Homeland Security, who shall pre-15 scribe conditions, including exaction of such bonds as may be necessary, to control and regu-16 17 late the admission and return of inadmissible 18 aliens applying for temporary admission under 19 this paragraph.". 20 (c) Numerical LIMITATION.—Section 21 214(g)(11)(B) (8 U.S.C. 1184(g)(11)(B)) is amended by 22 striking the period at the end and inserting "for each of 23 the nationalities identified under section 101(a)(15)(E)(iii).".

1 SEC. 4404. OTHER CHANGES TO NONIMMIGRANT VISAS.

2	(a) Portability.—Paragraphs (1) and (2) of sec-
3	tion 214(n) (8 U.S.C. 1184(n)) are amended to read as
4	follows:
5	"(1) A nonimmigrant alien described in paragraph
6	(2) who was previously issued a visa or otherwise provided
7	nonimmigrant status under section $101(a)(15)(H)(i)(b)$ or
8	101(a)(15)(O)(i) is authorized to accept new employment
9	pursuant to such section upon the filing by the prospective
10	employer of a new petition on behalf of such nonimmigrant
11	as provided under subsection (a). Employment authoriza-
12	tion shall continue for such alien until the new petition
13	is adjudicated. If the new petition is denied, such author-
14	ization shall cease.
15	"(2) A nonimmigrant alien described in this para-
16	graph is a nonimmigrant alien—
17	"(A) who has been lawfully admitted into the
18	United States;
19	"(B) on whose behalf an employer has filed a
20	nonfrivolous petition for new employment before the
21	date of expiration of the period of stay authorized by
22	the Secretary of Homeland Security; and
23	"(C) who, subsequent to such lawful admission,
24	has not been employed without authorization in the
25	United States before the filing of such petition.".

- 1 (b) WAIVER.—The undesignated material at the end
- 2 of section 214(c)(3) (8 U.S.C. 1184(c)(3)) is amended to
- 3 read as follows:
- 4 "The Secretary of Homeland Security shall provide by
- 5 regulation for the waiver of the consultation requirement
- 6 under subparagraph (A) in the case of aliens who have
- 7 been admitted as nonimmigrants under section
- 8 101(a)(15)(O)(i) because of extraordinary ability in the
- 9 arts or extraordinary achievement in motion picture or tel-
- 10 evision production and who seek readmission to perform
- 11 similar services within 3 years after the date of a consulta-
- 12 tion under such subparagraph provided that, in the case
- 13 of aliens admitted because of extraordinary achievement
- 14 in motion picture or television production, such waiver
- 15 shall apply only if the prior consultations by the appro-
- 16 priate union and management organization were favorable
- 17 or raised no objection to the approval of the petition. Not
- 18 later than 5 days after such a waiver is provided, the Sec-
- 19 retary shall forward a copy of the petition and all sup-
- 20 porting documentation to the national office of an appro-
- 21 priate labor organization. In the case of an alien seeking
- 22 entry for a motion picture or television production (i) any
- 23 opinion under the previous sentence shall only be advisory;
- 24 (ii) any such opinion that recommends denial must be in
- 25 writing; (iii) in making the decision the Attorney General

- 1 shall consider the exigencies and scheduling of the produc-
- 2 tion; (iv) the Attorney General shall append to the decision
- 3 any such opinion; and (v) upon making the decision, the
- 4 Attorney General shall immediately provide a copy of the
- 5 decision to the consulting labor and management organi-
- 6 zations.".

7 SEC. 4405. TREATMENT OF NONIMMIGRANTS DURING AD-

- 8 JUDICATION OF APPLICATION.
- 9 Section 214 (8 U.S.C. 1184), as amended by sections
- 10 3609 and 4233, is further amended by adding at the end
- 11 the following:
- 12 "(u) Treatment of Nonimmigrants During Ad-
- 13 JUDICATION OF APPLICATION.—A nonimmigrant alien
- 14 granted employment authorization pursuant to sections
- 15 101(a)(15)(A), 101(a)(15)(E), 101(a)(15)(G),
- 16 101(a)(15)(H), 101(a)(15)(I), 101(a)(15)(J),
- 17 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P),
- 18 101(a)(15)(Q), 101(a)(15)(R), 214(e), and such other sec-
- 19 tions as the Secretary of Homeland Security may by regu-
- 20 lations prescribe whose status has expired but who has,
- 21 or whose sponsoring employer or authorized agent has,
- 22 filed a timely application or petition for an extension of
- 23 such employment authorization and nonimmigrant status
- 24 as provided under subsection (a) is authorized to continue
- 25 employment with the same employer until the application

- 1 or petition is adjudicated. Such authorization shall be sub-
- 2 ject to the same conditions and limitations as the initial
- 3 grant of employment authorization.".
- 4 SEC. 4406. NONIMMIGRANT ELEMENTARY AND SECONDARY
- 5 SCHOOL STUDENTS.
- 6 Section 214(m)(1)(B) (8 U.S.C. 1184(m)(1)(B)) is
- 7 amended striking "unless—" and all that follows through
- 8 "(ii)" and inserting "unless".
- 9 SEC. 4407. J-1 SUMMER WORK TRAVEL VISA EXCHANGE VIS-
- 10 ITOR PROGRAM FEE.
- 11 Section 281 (8 U.S.C. 1351), as amended by section
- 12 4105, is further amended by adding at the end the fol-
- 13 lowing:
- 14 "(e) J-1 Summer Work Travel Participant
- 15 Fee.—In addition to the fees authorized under subsection
- 16 (a), the Secretary of State shall collect a \$100 fee from
- 17 each nonimmigrant entering under the Summer Work
- 18 Travel program conducted by the Secretary of State pur-
- 19 suant to the Foreign Affairs Reform and Restructuring
- 20 Act of 1998 (division G of Public Law 105–277; 112 Stat.
- 21 2681–761). Fees collected under this subsection shall be
- 22 deposited into the Comprehensive Immigration Reform
- 23 Trust Fund established under section 6(a)(1) of the Bor-
- 24 der Security, Economic Opportunity, and Immigration
- 25 Modernization Act.".

1 SEC. 4408. J VISA ELIGIBILITY.

2	(a) Speakers of Certain Foreign Languages.—
3	Section $101(a)(15)(J)$ (8 U.S.C. $1101(a)(15)(J)$) is
4	amended to read as follows:
5	"(J) an alien having a residence in a for-
6	eign country which he has no intention of aban-
7	doning who—
8	"(i) is a bona fide student, scholar,
9	trainee, teacher, professor, research assist-
10	ant, specialist, or leader in a field of spe-
11	cialized knowledge or skill, or other person
12	of similar description, who is coming tem-
13	porarily to the United States as a partici-
14	pant in a program designated by the Di-
15	rector of the United States Information
16	Agency, for the purpose of teaching, in-
17	structing or lecturing, studying, observing,
18	conducting research, consulting, dem-
19	onstrating special skills, or receiving train-
20	ing and who, if such alien is coming to the
21	United States to participate in a program
22	under which such alien will receive grad-
23	uate medical education or training, also
24	meets the requirements of section 212(j),
25	and the alien spouse and minor children of

1 any such alien if accompanying such alien 2 or following to join such alien; or 3 "(ii) is coming to the United States to 4 perform work involving specialized knowledge or skill, including teaching on a full-6 time or part-time basis, that requires pro-7 ficiency of languages spoken as a native 8 language in countries of which fewer than 9 5,000 nationals were lawfully admitted for 10 permanent residence in the United States 11 in the previous year;". 12 (b) REQUIREMENT FOR ANNUAL LIST OF COUN-TRIES.—The Secretary of State shall publish an annual list of the countries described in clause (ii) of section 14 15 101(a)(15)(J) of the Immigration and Nationality Act (8) U.S.C. 1101(a)(15)(J), as added by subsection (a). 16 17 (c) Summer Work Travel Program Employment IN SEAFOOD PROCESSING.—Notwithstanding any other 18 provision of law or regulation, including part 62 of title 19 20 22, Code of Federal Regulations, or any proposed rule, 21 the Secretary of State shall permit participants in the Summer Work Travel program described in section 62.32 of such title 22 who are admitted under section 23

101(a)(15)(J) of the Immigration and Nationality Act (8

1	U.S.C. $1101(a)(15)(J)$, as amended by subsection (a), to
2	be employed in seafood processing positions in Alaska.
3	SEC. 4409. F-1 VISA FEE.
4	Section 281 (8 U.S.C. 1351), as amended by sections
5	4105 and 4407, is further amended by adding at the end
6	the following:
7	"(f) F-1 VISA FEE.—
8	"(1) In general.—In addition to the fees au-
9	thorized under subsection (a), the Secretary of
10	Homeland Security shall collect a \$100 fee from
11	each nonimmigrant admitted under section
12	101(a)(15)(F)(i). Fees collected under this sub-
13	section shall be deposited into the Comprehensive
14	Immigration Reform Trust Fund established under
15	section 6(a)(1) of the Border Security, Economic
16	Opportunity, and Immigration Modernization Act.
17	"(2) Rulemaking.—The Secretary of Home-
18	land Security, in conjunction with the Secretary of
19	State, shall promulgate regulations to ensure that—
20	"(A) the fee authorized under paragraph
21	(1) is paid on behalf of all J-1 nonimmigrants
22	seeking entry into the United States;
23	"(B) a fee related to the hiring of a J-1
24	nonimmigrant is not deducted from the wages

1	or other compensation paid to the J–1 non-
2	immigrant; and
3	"(C) not more than 1 fee is collected per
4	J-1 nonimmigrant.".
5	SEC. 4410. PILOT PROGRAM FOR REMOTE B NON-
6	IMMIGRANT VISA INTERVIEWS.
7	Section 222 (8 U.S.C. 1202) is amended by adding
8	at the end the following:
9	"(i)(1) Except as provided in paragraph (3), the Sec-
10	retary of State—
11	"(A) shall develop and conduct a pilot program
12	for processing visas under section $101(a)(15)(B)$
13	using secure remote videoconferencing technology as
14	a method for conducting any required in person
15	interview of applicants; and
16	"(B) in consultation with the heads of other
17	Federal agencies that use such secure communica-
18	tions, shall help ensure the security of the
19	videoconferencing transmission and encryption con-
20	ducted under subparagraph (A).
21	"(2) Not later than 90 days after the termination of
22	the pilot program authorized under paragraph (1), the
23	Secretary of State shall submit to the appropriate commit-
24	tees of Congress a report that contains—

1	"(A) a detailed description of the results of
2	such program, including an assessment of the effi-
3	cacy, efficiency, and security of the remote
4	videoconferencing technology as a method for con-
5	ducting visa interviews of applicants; and
6	"(B) recommendations for whether such pro-
7	gram should be continued, broadened, or modified.
8	"(3) The pilot program authorized under paragraph
9	(1) may not be conducted if the Secretary of State deter-
10	mines that such program—
11	"(A) poses an undue security risk; and
12	"(B) cannot be conducted in a manner con-
13	sistent with maintaining security controls.
14	"(4) If the Secretary of State makes a determination
15	under paragraph (3), the Secretary shall submit a report
16	to the appropriate committees of Congress that describes
17	the reasons for such determination.
18	"(5) In this subsection:
19	"(A) The term 'appropriate committees of Con-
20	gress' means—
21	"(i) the Committee on the Judiciary, the
22	Committee on Foreign Relations, and the Com-
23	mittee on Appropriations of the Senate; and
24	"(ii) the Committee on the Judiciary, the
25	Committee on Foreign Affairs and the Com-

1	mittee on Appropriations of the House of Rep-
2	resentatives.
3	"(B) The term 'in person interview' includes
4	interviews conducted using remote video tech-
5	nology.".
6	SEC. 4411. PROVIDING CONSULAR OFFICERS WITH ACCESS
7	TO ALL TERRORIST DATABASES AND REQUIR-
8	ING HEIGHTENED SCRUTINY OF APPLICA-
9	TIONS FOR ADMISSION FROM PERSONS LIST-
10	ED ON TERRORIST DATABASES.
11	Section 222 (8 U.S.C. 1202), as amended by section
12	4410, is further amended by adding at the end the fol-
13	lowing:
14	"(j) Providing Consular Officers With Access
15	TO ALL TERRORIST DATABASES AND REQUIRING
16	HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMIS-
17	SION FROM PERSONS LISTED ON TERRORIST DATA-
18	BASES.—
19	"(1) Access to the secretary of state.—
20	"(A) In general.—Except as provided in
21	subparagraph (B), the Secretary of State shall
22	have access to all terrorism records and data-
23	bases maintained by any agency or department
24	of the United States for the purposes of deter-

1	mining whether an applicant for admission
2	poses a security threat to the United States.
3	"(B) Exception.—The head of such an
4	agency or department may only withhold access
5	to terrorism records and databases from the
6	Secretary of State if such head is able to articu-
7	late that withholding is necessary to prevent the
8	unauthorized disclosure of information that
9	clearly identifies, or would reasonably permit
10	ready identification of, intelligence or sensitive
11	law enforcement sources, methods, or activities.
12	"(2) BIOGRAPHIC AND BIOMETRIC SCREEN-
13	ING.—
14	"(A) REQUIREMENT FOR BIOGRAPHIC AND
15	BIOMETRIC SCREENING.—Notwithstanding any
16	other provision of this Act, the Secretary of
17	State shall require every alien applying for ad-
18	mission to the United States to submit to bio-
19	graphic and biometric screening to determine
20	whether the alien's name or biometric informa-
21	tion is listed in any terrorist watch list or data-
22	base maintained by any agency or department
23	of the United States.
24	"(B) Exclusions.—No alien applying for
25	a visa to the United States shall be granted

1	such visa by a consular officer if the alien's
2	name or biometric information is listed in any
3	terrorist watch list or database referred to in
4	subparagraph (A) unless—
5	"(i) screening of the alien's visa appli-
6	cation against interagency counterter-
7	rorism screening systems which compare
8	the applicant's information against data in
9	all counterterrorism watch lists and data-
10	bases reveals no potentially pertinent links
11	to terrorism;
12	"(ii) the consular officer submits the
13	application for further review to the Sec-
14	retary of State and the heads of other rel-
15	evant agencies, including the Secretary of
16	Homeland Security and the Director of
17	National Intelligence; and
18	"(iii) the Secretary of State, after
19	consultation with the Secretary of Home-
20	land Security, the Director of National In-
21	telligence, and the heads of other relevant
22	agencies, certifies that the alien is admis-
23	sible to the United States.".

1	SEC. 4412. VISA REVOCATION INFORMATION.
2	Section 428 of the Homeland Security Act of 2002
3	(6 U.S.C. 236) is amended by adding at the end the fol-
4	lowing:
5	"(j) VISA REVOCATION INFORMATION.—If the Sec-
6	retary of State or the Secretary of Homeland Security re-
7	voke a visa—
8	"(1) the fact of the revocation shall be imme-
9	diately provided to the relevant consular officers, law
10	enforcement, and terrorist screening databases; and
11	"(2) a notice of such revocation shall be posted
12	to all Department of Homeland Security port inspec-
13	tors and to all consular officers.".
14	SEC. 4413. STATUS FOR CERTAIN BATTERED SPOUSES AND
15	CHILDREN.
16	(a) Nonimmigrant Status for Certain Bat-
17	TERED SPOUSES AND CHILDREN.—Section 101(a)(51) (8
18	U.S.C. 1101(a)(51)), as amended by section
19	2305(d)(6)(B)(i)(III), is further amended—
20	(1) in subparagraph (E), by striking "or" at
21	the end;
22	(2) in subparagraph (F), by striking the period
23	at the end and inserting "; or"; and
24	(3) by adding at the end the following:
25	"(G) section 106 as an abused derivative

alien.".

1	(b) Relief for Abused Derivative Aliens.—
2	(1) In General.—Section 106 (8 U.S.C.
3	1105a) is amended to read as follows:
4	"SEC. 106. RELIEF FOR ABUSED DERIVATIVE ALIENS.
5	"(a) Abused Derivative Alien Defined.—In this
6	section, the term 'abused derivative alien' means an alien
7	who—
8	"(1) is the spouse or child admitted under sec-
9	tion 101(a)(15) or pursuant to a blue card status
10	granted under section 2211 of the Border Security,
11	Economic Opportunity, and Immigration Moderniza-
12	tion Act;
13	"(2) is accompanying or following to join a
14	principal alien admitted under such a section; and
15	"(3) has been subjected to battery or extreme
16	cruelty by such principal alien.
17	"(b) Relief for Abused Derivative Aliens.—
18	The Secretary of Homeland Security—
19	"(1) shall grant or extend the status of admis-
20	sion of an abused derivative alien under section
21	101(a)(15) or section 2211 of the Border Security,
22	Economic Opportunity, and Immigration Moderniza-
23	tion Act under which the principal alien was admit-
24	ted for the longer of—

1	"(A) the same period for which the prin-
2	cipal was initially admitted; or
3	"(B) a period of 3 years;
4	"(2) may renew a grant or extension of status
5	made under paragraph (1);
6	"(3) shall grant employment authorization to
7	an abused derivative alien; and
8	"(4) may adjust the status of the abused deriv-
9	ative alien to that of an alien lawfully admitted for
10	permanent residence if—
11	"(A) the alien is admissible under section
12	212(a) or the Secretary of Homeland Security
13	finds the alien's continued presence in the
14	United States is justified on humanitarian
15	grounds, to ensure family unity, or is otherwise
16	in the public interest; and
17	"(B) the status under which the principal
18	alien was admitted to the United States would
19	have potentially allowed for eventual adjustment
20	of status.
21	"(c) Effect of Termination of Relationship.—
22	Termination of the relationship with principal alien shall
23	not affect the status of an abused derivative alien under
24	this section if battery or extreme cruelty by the principal

- 1 alien was 1 central reason for termination of the relation-
- 2 ship.
- 3 "(d) Procedures.—Requests for relief under this
- 4 section shall be handled under the procedures that apply
- 5 to aliens seeking relief under section 204(a)(1)(C).".
- 6 (2) Table of contents amendment.—The
- 7 table of contents in the first section is amended by
- 8 striking the item relating to section 106 and insert-
- 9 ing the following:

"Sec. 106. Relief for abused derivative aliens.".

- 10 SEC. 4414. NONIMMIGRANT CREWMEN LANDING TEMPO-
- 11 RARILY IN HAWAII.
- 12 (a) IN GENERAL.—Section 101(a)(15)(D)(ii) (8
- 13 U.S.C. 1101(a)(15)(D)(ii)) is amended—
- (1) by striking "Guam" both places that term
- appears and inserting "Hawaii, Guam,"; and
- 16 (2) by striking the semicolon at the end and in-
- serting "or some other vessel or aircraft;".
- 18 (b) Treatment of Departures.—In the adminis-
- 19 tration of section 101(a)(15)(D)(ii) of the Immigration
- 20 and Nationality Act (8 U.S.C. 1101(a)(15)(D)(ii)), an
- 21 alien crewman shall be considered to have departed from
- 22 Hawaii, Guam, or the Commonwealth of the Northern
- 23 Mariana Islands after leaving the territorial waters of Ha-
- 24 waii, Guam, or the Commonwealth of the Northern Mar-
- 25 iana Islands, respectively, without regard to whether the

- 1 alien arrives in a foreign state before returning to Hawaii,
- 2 Guam, or the Commonwealth of the Northern Mariana Is-
- 3 lands.
- 4 (c) Conforming Amendment.—The Act entitled
- 5 "An Act to amend the Immigration and Nationality Act
- 6 to permit nonimmigrant alien crewmen on fishing vessels
- 7 to stop temporarily at ports in Guam", approved October
- 8 21, 1986 (Public Law 99–505; 8 U.S.C. 1101 note) is
- 9 amended by striking section 2.
- 10 SEC. 4415. TREATMENT OF COMPACT OF FREE ASSOCIA-
- 11 TION MIGRANTS.
- 12 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)
- 13 is amended by inserting after section 214 the following:
- 14 "SEC. 214A. TREATMENT OF COMPACT OF FREE ASSOCIA-
- 15 TION MIGRANTS.
- 16 "Notwithstanding any other provision of law, with re-
- 17 spect to eligibility for benefits for the Federal program
- 18 defined in 402(b)(3)(C) of the Personal Responsibility and
- 19 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
- 20 1612(b)(3)(C)) (relating to the Medicaid program), sec-
- 21 tions 401(a), 402(b)(1), and 403(a) of the Personal Re-
- 22 sponsibility and Work Opportunity Reconciliation Act of
- 23 1996 (8 U.S.C. 1611(a), 1612(b)(1), 1613(a)) shall not
- 24 apply to any individual who lawfully resides in the United
- 25 States in accordance with the Compacts of Free Associa-

- 1 tion between the Government of the United States and
- 2 the Governments of the Federated States of Micronesia,
- 3 the Republic of the Marshall Islands, and the Republic of
- 4 Palau. Any individual to which the preceding sentence ap-
- 5 plies shall be considered to be a qualified alien for pur-
- 6 poses of title IV of the Personal Responsibility and Work
- 7 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601)
- 8 et seq.), but only with respect to the designated Federal
- 9 program defined in section 402(b)(3)(C) of such Act (re-
- 10 lating to the Medicaid program) (8 U.S.C.
- 11 1612(b)(3)(C)).".
- 12 (b) Conforming Amendments.—Section 1108 of
- 13 the Social Security Act (42 U.S.C. 1308) is amended—
- 14 (1) in subsection (f), in the matter preceding
- paragraph (1), by striking "subsection (g)" and in-
- serting "subsections (g) and (h)"; and
- 17 (2) by adding at the end the following:
- 18 "(h) The limitations of subsections (f) and (g) shall
- 19 not apply with respect to medical assistance provided to
- 20 an individual described in section 214A of the Immigra-
- 21 tion and Nationality Act.".
- (c) Effective Date.—The amendments made by
- 23 this section shall apply to benefits for items and services
- 24 furnished on or after the date of the enactment of this
- 25 Act.

1	SEC. 4416. INTERNATIONAL PARTICIPATION IN THE PER-
2	FORMING ARTS.
3	Section $214(c)(6)(D)$ (8 U.S.C. $1184(c)(6)(D)$) is
4	amended—
5	(1) in the first sentence, by inserting "(i)" be-
6	fore "Any person";
7	(2) in the second sentence—
8	(A) by striking "Once" and inserting "Ex-
9	cept as provided in clause (ii), once"; and
10	(B) by striking "Attorney General shall"
11	and inserting "Secretary of Homeland Security
12	shall";
13	(3) in the third sentence, by striking "The At-
14	torney General" and inserting "The Secretary"; and
15	(4) by adding at the end the following:
16	"(ii) The Secretary of Homeland Security shall adju-
17	dicate each petition for an alien with extraordinary ability
18	in the arts (as described in section $101(a)(15)(O)(i)$), an
19	alien accompanying such an alien (as described in clauses
20	(ii) and (iii) of section $101(a)(15)(O)$), or an alien de-
21	scribed in section $101(a)(15)(P)$ (other than an alien de-
22	scribed in paragraph (4)(A) (relating to athletes)) not
23	later than 14 days after—
24	"(I) the date on which the petitioner submits
25	the petition with a written advisory opinion, letter of
26	no objection, or request for a waiver; or

1	"(II) the date on which the 15-day period de-
2	scribed in clause (i) has expired, if the petitioner has
3	had an appropriate opportunity to supply rebuttal
4	evidence.
5	"(iii) If a petition described in clause (ii) is not adju-
6	dicated before the end of the 14-day period described in
7	clause (ii) and the petitioner is an arts organization de-
8	scribed in paragraph (3), (5), or (6) of section 501(c) of
9	the Internal Revenue Code of 1986 and exempt from tax
10	under section 501(a) of such Code for the taxable year
11	preceding the calendar year in which the petition is sub-
12	mitted, or an individual or entity petitioning primarily on
13	behalf of such an organization, the Secretary of Homeland
14	Security shall provide the petitioner with the premium
15	processing services referred to in section 286(u), without
16	a fee.".
17	SEC. 4417. LIMITATION ON ELIGIBILITY OF CERTAIN NON-
18	IMMIGRANTS FOR HEALTH-RELATED PRO-
19	GRAMS.
20	(a) In General.—Section 1903(v)(4)(A) of the So-
21	cial Security Act (42 U.S.C. 1396b(v)(4)(A)) is amended
22	by inserting ", but not including a nonimmigrant de-
23	scribed in subparagraph (B) or (F) of section 101(a)(15)
24	of the Immigration and Nationality Act" after "section
25	431(e) of such Act".

1 (b)	Conforming	CHANGES TO	REGULATIONS.—
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(1) Secretary of Health and Human Services shall conform all regulations promulgated by the Secretary of Health and Human Services that reference the term "lawfully present" for purposes of health-related programs administered by the Secretary of Health and Human Services to reflect the amendment made by subsection (a) to the definition of "lawfully residing" in section 1903(v)(4)(A) of the Social Security Act (42 U.S.C. 1396b(v)(4)(A)).

(2) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the same changes to regulations promulgated by the Secretary of the Treasury that reference the term "lawfully present" for purposes of health-related programs administered by the Secretary of the Treasury as the Secretary of Health and Human Services makes under paragraph (1).

Subtitle E—JOLT Act

21 SEC. 4501. SHORT TITLES.

- This subtitle may be cited as the "Jobs Originated
- 23 through Launching Travel Act of 2013" or the "JOLT
- 24 Act of 2013".

1	CEC 4700 PREMIUM PROCESSING
1	SEC. 4502. PREMIUM PROCESSING.
2	Section 221 (8 U.S.C. 1201)

2	Section 221 (8 U.S.C. 1201) is amended by inserting
3	at the end the following:
4	"(j) Premium Processing.—
5	"(1) PILOT PROCESSING SERVICE.—Recog-
6	nizing that the best solution for expedited processing
7	is low interview wait times for all applicants, the
8	Secretary of State shall nevertheless establish, on a
9	limited, pilot basis only, a fee-based premium proc-
10	essing service to expedite interview appointments. In
11	establishing a pilot processing service, the Secretary
12	may—
13	"(A) determine the consular posts at which
14	the pilot service will be available;
15	"(B) establish the duration of the pilot
16	service;
17	"(C) define the terms and conditions of the
18	pilot service, with the goal of expediting visa
19	appointments and the interview process for
20	those electing to pay said fee for the service;
21	and
22	"(D) resources permitting, during the pilot
23	service, consider the addition of consulates in
24	locations advantageous to foreign policy objec-
25	tives or in highly populated locales.

1	"(A) AUTHORITY TO COLLECT.—The Sec-
2	retary of State is authorized to collect, and set
3	the amount of, a fee imposed for the premium
4	processing service. The Secretary of State shall
5	set the fee based on all relevant considerations
6	including, the cost of expedited service.
7	"(B) Use of fees.—Fees collected under
8	the authority of subparagraph (A) shall be de-
9	posited as an offsetting collection to any De-
10	partment of State appropriation, to recover the
11	costs of providing consular services. Such fees
12	shall remain available for obligation until ex-
13	pended.
14	"(C) Relationship to other fees.—
15	Such fee is in addition to any existing fee cur-
16	rently being collected by the Department of
17	State.
18	"(D) Nonrefundable.—Such fee will be
19	nonrefundable to the applicant.
20	"(3) Description of Premium Proc-
21	ESSING.—Premium processing pertains solely to the
22	expedited scheduling of a visa interview. Utilizing
23	the premium processing service for an expedited
24	interview appointment does not establish the appli-

cant's eligibility for a visa. The Secretary of State

1	shall, if possible, inform applicants utilizing the pre-
2	mium processing of potential delays in visa issuance
3	due to additional screening requirements, including
4	necessary security-related checks and clearances.
5	"(4) Report to congress.—
6	"(A) REQUIREMENT FOR REPORT.—Not
7	later than 18 months after the date of the en-
8	actment of the JOLT Act of 2013, the Sec-
9	retary of State shall submit to the appropriate
10	committees of Congress a report on the results
11	of the pilot service carried out under this sec-
12	tion.
13	"(B) Appropriate committees of con-
14	GRESS DEFINED.—In this paragraph, the term
15	'appropriate committees of Congress' means—
16	"(i) the Committee on the Judiciary,
17	the Committee on Foreign Relations, and
18	the Committee on Appropriations of the
19	Senate; and
20	"(ii) the Committee on the Judiciary,
21	the Committee on Foreign Affairs, and the
22	Committee on Appropriations of the House
23	of Representatives.".

1	SEC. 4503. ENCOURAGING CANADIAN TOURISM TO THE
2	UNITED STATES.
3	Section 214 (8 U.S.C. 1184), as amended by sections
4	3609, 4233, and 4405, is further amended by adding at
5	the end the following:
6	"(v) Canadian Retirees.—
7	"(1) IN GENERAL.—The Secretary of Homeland
8	Security may admit as a visitor for pleasure as de-
9	scribed in section 101(a)(15)(B) any alien for a pe-
10	riod not to exceed 240 days, if the alien dem-
11	onstrates, to the satisfaction of the Secretary, that
12	the alien—
13	"(A) is a citizen of Canada;
14	"(B) is at least 55 years of age;
15	"(C) maintains a residence in Canada;
16	"(D) owns a residence in the United States
17	or has signed a rental agreement for accom-
18	modations in the United States for the duration
19	of the alien's stay in the United States;
20	"(E) is not inadmissible under section 212;
21	"(F) is not described in any ground of de-
22	portability under section 237;
23	"(G) will not engage in employment or
24	labor for hire in the United States; and
25	"(H) will not seek any form of assistance
26	or benefit described in section 403(a) of the

- Personal Responsibility and Work Opportunity
 Reconciliation Act of 1996 (8 U.S.C. 1613(a)).
- "(2) SPOUSE.—The spouse of an alien described in paragraph (1) may be admitted under the same terms as the principal alien if the spouse satisfies the requirements of paragraph (1), other than subparagraphs (B) and (D).
 - "(3) IMMIGRANT INTENT.—In determining eligibility for admission under this subsection, maintenance of a residence in the United States shall not be considered evidence of intent by the alien to abandon the alien's residence in Canada.
- 13 "(4) Period of Admission.—During any sin-14 gle 365-day period, an alien may be admitted as de-15 scribed in section 101(a)(15)(B) pursuant to this 16 subsection for a period not to exceed 240 days, be-17 ginning on the date of admission. Unless an exten-18 sion is approved by the Secretary, periods of time 19 spent outside the United States during such 240-day 20 period shall not toll the expiration of such 240-day 21 period.".

22 SEC. 4504. RETIREE VISA.

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- 23 (a) Nonimmigrant Status.—Section 101(a)(15),
- 24 as amended, is further amended by inserting after sub-
- 25 paragraph (X) the following:

1	"(Y) subject to section 214(w), an alien
2	who, after the date of the enactment of the
3	JOLT Act of 2013—
4	"(i)(I) uses at least \$500,000 in cash
5	to purchase 1 or more residences in the
6	United States, which each sold for more
7	than 100 percent of the most recent ap-
8	praised value of such residence, as deter-
9	mined by the property assessor in the city
10	or county in which the residence is located;
11	"(II) maintains ownership of residen-
12	tial property in the United States worth at
13	least \$500,000 during the entire period the
14	alien remains in the United States as a
15	nonimmigrant described in this subpara-
16	graph; and
17	"(III) resides for more than 180 days
18	per year in a residence in the United
19	States that is worth at least \$250,000; and
20	"(ii) the alien spouse and children of
21	the alien described in clause (i) if accom-
22	panying or following to join the alien.".
23	(b) VISA APPLICATION PROCEDURES.—Section 214
24	(8 U.S.C. 1184), as amended by sections 3609, 4233,

1	4405, and 4503, is further amended by adding at the end
2	the following:
3	"(w) VISAS OF NONIMMIGRANTS DESCRIBED IN SEC-
4	TION $101(a)(15)(Y)$.—
5	"(1) The Secretary of Homeland Security shall
6	authorize the issuance of a nonimmigrant visa to
7	any alien described in section $101(a)(15)(Y)$ who
8	submits a petition to the Secretary that—
9	"(A) demonstrates, to the satisfaction of
10	the Secretary, that the alien—
11	"(i) has purchased a residence in the
12	United States that meets the criteria set
13	forth in section $101(a)(15)(Y)(i)$;
14	"(ii) is at least 55 years of age;
15	"(iii) possesses health insurance cov-
16	erage;
17	"(iv) is not inadmissible under section
18	212; and
19	"(v) will comply with the terms set
20	forth in paragraph (2); and
21	"(B) includes payment of a fee in an
22	amount equal to \$1,000.
23	"(2) An alien who is issued a visa under this
24	subsection—

1	"(A) shall reside in the United States at a
2	residence that meets the criteria set forth in
3	section $101(a)(15)(Y)(i)$ for more than 180
4	days per year;
5	"(B) is not authorized to engage in em-
6	ployment in the United States, except for em-
7	ployment that is directly related to the manage-
8	ment of the residential property described in
9	section $101(Y)(i)(II)$;
10	"(C) is not eligible for any form of assist-
11	ance or benefit described in section 403(a) of
12	the Personal Responsibility and Work Oppor-
13	tunity Reconciliation Act of 1996 (8 U.S.C.
14	1613(a)); and
15	"(D) may renew such visa every 3 years
16	under the same terms and conditions.".
17	(c) Use of Fee.—Fees collected under section
18	214(w)(1)(B) of the Immigration and Nationality Act, as
19	added by subsection (b), shall be deposited in the Com-
20	prehensive Immigration Reform Trust Fund established
21	under section $6(a)(1)$.

1	SEC. 4505. INCENTIVES FOR FOREIGN VISITORS VISITING
2	THE UNITED STATES DURING LOW PEAK SEA-
3	SONS.
4	The Secretary of State shall make publically avail-
5	able, on a monthly basis, historical data, for the previous
6	2 years, regarding the availability of visa appointments for
7	each visa processing post, to allow applicants to identify
8	periods of low demand, when wait times tend to be lower.
9	SEC. 4506. VISA WAIVER PROGRAM ENHANCED SECURITY
10	AND REFORM.
11	(a) Definitions.—Section 217(c)(1) (8 U.S.C.
12	1187(c)(1)) is amended to read as follows:
13	"(1) Authority to designate; defini-
14	TIONS.—
15	"(A) AUTHORITY TO DESIGNATE.—The
16	Secretary of Homeland Security, in consultation
17	with the Secretary of State, may designate any
18	country as a program country if that country
19	meets the requirements under paragraph (2).
20	"(B) Definitions.—In this subsection:
21	"(i) Appropriate congressional
22	COMMITTEES.—The term 'appropriate con-
23	gressional committees' means—
24	"(I) the Committee on Foreign
25	Relations, the Committee on Home-
26	land Security and Governmental Af-

1	fairs, and the Committee on the Judi-
2	ciary of the Senate; and
3	"(II) the Committee on Foreign
4	Affairs, the Committee on Homeland
5	Security, and the Committee on the
6	Judiciary of the House of Representa-
7	tives.
8	"(ii) Overstay rate.—
9	"(I) Initial designation.—The
10	term 'overstay rate' means, with re-
11	spect to a country being considered
12	for designation in the program, the
13	ratio of—
14	"(aa) the number of nation-
15	als of that country who were ad-
16	mitted to the United States on
17	the basis of a nonimmigrant visa
18	under section $101(a)(15)(B)$
19	whose periods of authorized stay
20	ended during a fiscal year but
21	who remained unlawfully in the
22	United States beyond such peri-
23	ods; to
24	"(bb) the number of nation-
25	als of that country who were ad-

1	mitted to the United States on
2	the basis of a nonimmigrant visa
3	under section 101(a)(15)(B)
4	whose periods of authorized stay
5	ended during that fiscal year.
6	"(II) Continuing designa-
7	TION.—The term 'overstay rate'
8	means, for each fiscal year after ini-
9	tial designation under this section
10	with respect to a country, the ratio
11	of—
12	"(aa) the number of nation-
13	als of that country who were ad-
14	mitted to the United States
15	under this section or on the basis
16	of a nonimmigrant visa under
17	section 101(a)(15)(B) whose pe-
18	riods of authorized stay ended
19	during a fiscal year but who re-
20	mained unlawfully in the United
21	States beyond such periods; to
22	"(bb) the number of nation-
23	als of that country who were ad-
24	mitted to the United States
25	under this section or on the basis

1	of a nonimmigrant visa under
2	section 101(a)(15)(B) whose pe-
3	riods of authorized stay ended
4	during that fiscal year.
5	"(III) Computation of over-
6	STAY RATE.—In determining the over-
7	stay rate for a country, the Secretary
8	of Homeland Security may utilize in-
9	formation from any available data-
10	bases to ensure the accuracy of such
11	rate.
12	"(iii) Program country.—The term
13	'program country' means a country des-
14	ignated as a program country under sub-
15	paragraph (A).".
16	(b) Technical and Conforming Amendments.—
17	Section 217 (8 U.S.C. 1187) is amended—
18	(1) by striking "Attorney General" each place
19	the term appears (except in subsection $(c)(11)(B)$)
20	and inserting "Secretary of Homeland Security";
21	and
22	(2) in subsection (c)—
23	(A) in paragraph (2)(C)(iii), by striking
24	"Committee on the Judiciary and the Com-
25	mittee on International Relations of the House

1	of Representatives and the Committee on the
2	Judiciary and the Committee on Foreign Rela-
3	tions of the Senate" and inserting "appropriate
4	congressional committees";
5	(B) in paragraph (5)(A)(i)(III), by striking
6	"Committee on the Judiciary, the Committee on
7	Foreign Affairs, and the Committee on Home-
8	land Security, of the House of Representatives
9	and the Committee on the Judiciary, the Com-
10	mittee on Foreign Relations, and the Com-
11	mittee on Homeland Security and Govern-
12	mental Affairs of the Senate" and inserting
13	"appropriate congressional committees"; and
14	(C) in paragraph (7), by striking subpara-
15	graph (E).
16	(c) Designation of Program Countries Based
17	ON OVERSTAY RATES.—
18	(1) In General.—Section $217(c)(2)(A)$ (8
19	U.S.C. $1187(c)(2)(A)$) is amended to read as fol-
20	lows:
21	"(A) GENERAL NUMERICAL LIMITA-
22	TIONS.—
23	"(i) Low nonimmigrant visa re-
24	FUSAL RATE.—The percentage of nationals
25	of that country refused nonimmigrant visas

1	under section 101(a)(15)(B) during the
2	previous full fiscal year was not more than
3	3 percent of the total number of nationals
4	of that country who were granted or re-
5	fused nonimmigrant visas under such sec-
6	tion during such year.
7	"(ii) Low nonimmigrant overstay
8	RATE.—The overstay rate for that country
9	was not more than 3 percent during the
10	previous fiscal year.".
11	(2) QUALIFICATION CRITERIA.—Section
12	217(c)(3) (8 U.S.C. 1187(c)(3)) is amended to read
13	as follows:
14	"(3) QUALIFICATION CRITERIA.—After designa-
15	tion as a program country under section 217(c)(2),
16	a country may not continue to be designated as a
17	program country unless the Secretary of Homeland
18	Security, in consultation with the Secretary of State,
19	determines, pursuant to the requirements under
20	paragraph (5), that the designation will be contin-
21	ued.".
22	(3) Initial Period.—Section 217(c) (8 U.S.C.
23	1187(c)) is amended by striking paragraph (4).

1	(4) Continuing Designation.—Section
2	217(e)(5)(A)(i)(II) (8 U.S.C. $1187(e)(5)(A)(i)(II)$) is
3	amended to read as follows:
4	"(II) shall determine,
5	based upon the evaluation in
6	subclause (I), whether any
7	such designation under sub-
8	section (d) or (f), or proba-
9	tion under subsection (f),
10	ought to be continued or ter-
11	minated;".
12	(5) Computation of VISA Refusal Rates;
13	JUDICIAL REVIEW.—Section 217(c)(6) (8 U.S.C.
14	1187(c)(6)) is amended to read as follows:
15	"(6) Computation of VISA refusal rates
16	AND JUDICIAL REVIEW.—
17	"(A) Computation of VISA Refusal
18	RATES.—For purposes of determining the eligi-
19	bility of a country to be designated as a pro-
20	gram country, the calculation of visa refusal
21	rates shall not include any visa refusals which
22	incorporate any procedures based on, or are
23	otherwise based on, race, sex, or disability, un-
24	less otherwise specifically authorized by law or
25	regulation.

1	"(B) Judicial review.—No court shall
2	have jurisdiction under this section to review
3	any visa refusal, the Secretary of State's com-
4	putation of a visa refusal rate, the Secretary of
5	Homeland Security's computation of an over-
6	stay rate, or the designation or nondesignation
7	of a country as a program country.".
8	(6) VISA WAIVER INFORMATION.—Section
9	217(c)(7) (8 U.S.C. $1187(c)(7)$), as amended by
10	subsection (b)(2)(C), is further amended—
11	(A) by striking subparagraphs (B) through
12	(D); and
13	(B) by striking "WAIVER INFORMATION.—
14	" and all that follows through "In refusing"
15	and inserting "WAIVER INFORMATION.—In re-
16	fusing".
17	(7) Waiver authority.—Section 217(c)(8) (8
18	U.S.C. 1187(c)(8)) is amended to read as follows:
19	"(8) Waiver authority.—The Secretary of
20	Homeland Security, in consultation with the Sec-
21	retary of State, may waive the application of para-
22	graph (2)(A)(i) for a country if—
23	"(A) the country meets all other require-
24	ments of paragraph (2):

1	"(B) the Secretary of Homeland Security
2	determines that the totality of the country's se-
3	curity risk mitigation measures provide assur-
4	ance that the country's participation in the pro-
5	gram would not compromise the law enforce-
6	ment, security interests, or enforcement of the
7	immigration laws of the United States;
8	"(C) there has been a general downward
9	trend in the percentage of nationals of the
10	country refused nonimmigrant visas under sec-
11	tion 101(a)(15)(B);
12	"(D) the country consistently cooperated
13	with the Government of the United States on
13	counterterrorism initiatives, information shar-
15	ing, preventing terrorist travel, and extradition
16	to the United States of individuals (including
17	the country's own nationals) who commit
18	crimes that violate United States law before the
19	date of its designation as a program country,
20	and the Secretary of Homeland Security and
21	the Secretary of State assess that such coopera-
22	tion is likely to continue; and
23	"(E) the percentage of nationals of the
24	country refused a nonimmigrant visa under sec-
25	tion 101(a)(15)(B) during the previous full fis-

1	cal year was not more than 10 percent of the
2	total number of nationals of that country who
3	were granted or refused such nonimmigrant
4	visas.".
5	(d) Termination of Designation; Probation.—
6	Section 217(f) (8 U.S.C. 1187(f)) is amended to read as
7	follows:
8	"(f) Termination of Designation; Probation.—
9	"(1) Definitions.—In this subsection:
10	"(A) Probationary Period.—The term
11	'probationary period' means the fiscal year in
12	which a probationary country is placed in pro-
13	bationary status under this subsection.
14	"(B) Program country.—The term 'pro-
15	gram country' has the meaning given that term
16	in subsection $(c)(1)(B)$.
17	"(2) Determination, notice, and initial
18	PROBATIONARY PERIOD.—
19	"(A) DETERMINATION OF PROBATIONARY
20	STATUS AND NOTICE OF NONCOMPLIANCE.—As
21	part of each program country's periodic evalua-
22	tion required by subsection (c)(5)(A), the Sec-
23	retary of Homeland Security shall determine
24	whether a program country is in compliance

1	with the program requirements under subpara-
2	graphs (A)(ii) through (F) of subsection (c)(2).
3	"(B) Initial probationary period.—If
4	the Secretary of Homeland Security determines

that a program country is not in compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2), the Secretary of Homeland Security shall place the program country in probationary status for the fiscal year following the fiscal year in which the periodic evaluation is completed.

"(3) ACTIONS AT THE END OF THE INITIAL PROBATIONARY PERIOD.—At the end of the initial probationary period of a country under paragraph (2)(B), the Secretary of Homeland Security shall

take 1 of the following actions:

"(A) COMPLIANCE DURING INITIAL PROBA-TIONARY PERIOD.—If the Secretary determines that all instances of noncompliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2) that were identified in the latest periodic evaluation have been remedied by the end of the initial probationary period, the Secretary shall end the country's probationary period.

1	"(B) Noncompliance during initial
2	PROBATIONARY PERIOD.—If the Secretary de-
3	termines that any instance of noncompliance
4	with the program requirements under subpara-
5	graphs (A)(ii) through (F) of subsection (c)(2)
6	that were identified in the latest periodic eval-
7	uation has not been remedied by the end of the
8	initial probationary period—
9	"(i) the Secretary may terminate the
10	country's participation in the program; or
11	"(ii) on an annual basis, the Secretary
12	may continue the country's probationary
13	status if the Secretary, in consultation
14	with the Secretary of State, determines
15	that the country's continued participation
16	in the program is in the national interest
17	of the United States.
18	"(4) ACTIONS AT THE END OF ADDITIONAL
19	PROBATIONARY PERIODS.—At the end of all proba-
20	tionary periods granted to a country pursuant to
21	paragraph (3)(B)(ii), the Secretary shall take 1 of
22	the following actions:
23	"(A) COMPLIANCE DURING ADDITIONAL
24	PERIOD.—The Secretary shall end the country's
25	probationary status if the Secretary determines

during the latest periodic evaluation required by subsection (c)(5)(A) that the country is in compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2).

"(B) Noncompliance during additional Periods.—The Secretary shall terminate the country's participation in the program if the Secretary determines during the latest periodic evaluation required by subsection (c)(5)(A) that the program country continues to be in noncompliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2).

"(5) Effective date.—The termination of a country's participation in the program under paragraph (3)(B) or (4)(B) shall take effect on the first day of the first fiscal year following the fiscal year in which the Secretary determines that such participation shall be terminated. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

"(6) Treatment of Nationals after termi-Nation.—For purposes of this subsection and subsection (d)—

1	"(A) nationals of a country whose designa-
2	tion is terminated under paragraph (3) or (4)
3	shall remain eligible for a waiver under sub-
4	section (a) until the effective date of such ter-
5	mination; and
6	"(B) a waiver under this section that is
7	provided to such a national for a period de-
8	scribed in subsection (a)(1) shall not, by such
9	termination, be deemed to have been rescinded
10	or otherwise rendered invalid, if the waiver is
11	granted prior to such termination.
12	"(7) Consultative role of the secretary
13	OF STATE.—In this subsection, references to sub-
14	paragraphs (A)(ii) through (F) of subsection (c)(2)
15	and subsection $(c)(5)(A)$ carry with them the con-
16	sultative role of the Secretary of State as provided
17	in those provisions.".
18	(e) Review of Overstay Tracking Method-
19	OLOGY.—Not later than 180 days after the date of the
20	enactment of this Act, the Comptroller General of the
21	United States shall conduct a review of the methods used
22	by the Secretary—
23	(1) to track aliens entering and exiting the
24	United States; and

1	(2) to detect any such alien who stays longer
2	than such alien's period of authorized admission.
3	(f) Evaluation of Electronic System for
4	TRAVEL AUTHORIZATION.—Not later than 90 days after
5	the date of the enactment of this Act, the Secretary shall
6	submit to Congress—
7	(1) an evaluation of the security risks of aliens
8	who enter the United States without an approved
9	Electronic System for Travel Authorization
10	verification; and
11	(2) a description of any improvements needed
12	to minimize the number of aliens who enter the
13	United States without the verification described in
14	paragraph (1).
15	(g) Sense of Congress on Priority for Review
16	OF PROGRAM COUNTRIES.—It is the sense of Congress
17	that the Secretary, in the process of conducting evalua-
18	tions of countries participating in the visa waiver program
19	under section 217 of the Immigration and Nationality Act
20	(8 U.S.C. 1187), should prioritize the reviews of countries
21	in which circumstances indicate that such a review is nec-
22	essary or desirable.
23	(h) ELIGIBILITY OF HONG KONG SPECIAL ADMINIS-
24	TRATIVE REGION FOR DESIGNATION FOR PARTICIPATION
25	IN VISA WAIVER PROGRAM FOR CERTAIN VISITORS TO

1	THE UNITED STATES.—Section 217(c) (8 U.S.C.
2	1187(c)) is amended by adding at the end the following
3	new paragraph:
4	"(12) Eligibility of certain region for
5	DESIGNATION AS PROGRAM COUNTRY.—The Hong
6	Kong Special Administrative Region of the People's
7	Republic of China—
8	"(A) shall be eligible for designation as a
9	program country for purposes of this sub-
10	section; and
11	"(B) may be designated as a program
12	country for purposes of this subsection if such
13	region meets requirements applicable for such
14	designation in this subsection.".
15	SEC. 4507. EXPEDITING ENTRY FOR PRIORITY VISITORS.
16	Section 7208(k)(4) of the Intelligence Reform and
17	Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(4))
18	is amended to read as follows:
19	"(4) Expediting entry for priority visi-
20	TORS.—
21	"(A) IN GENERAL.—The Secretary of
22	Homeland Security may expand the enrollment
23	across registered traveler programs to include
24	eligible individuals employed by international
25	organizations, selected by the Secretary, which

1	maintain strong working relationships with the
2	United States.
3	"(B) Requirements.—An individual may
4	not be enrolled in a registered traveler program
5	unless—
6	"(i) the individual is sponsored by an
7	international organization selected by the
8	Secretary under subparagraph (A); and
9	"(ii) the government that issued the
10	passport that the individual is using has
11	entered into a Trusted Traveler Arrange-
12	ment with the Department of Homeland
13	Security to participate in a registered trav-
14	eler program.
15	"(C) Security requirements.—An indi-
16	vidual may not be enrolled in a registered trav-
17	eler program unless the individual has success-
18	fully completed all applicable security require-
19	ments established by the Secretary, including
20	cooperation from the applicable foreign govern-
21	ment, to ensure that the individual does not
22	pose a risk to the United States.
23	"(D) DISCRETION.—Except as provided in
24	subparagraph (E), the Secretary shall retain
25	unreviewable discretion to offer or revoke en-

1	rollment in a registered traveler program to any
2	individual.
3	"(E) Ineligible travelers.—An indi-
4	vidual who is a citizen of a state sponsor of ter-
5	rorism (as defined in section $301(13)$ of the
6	Comprehensive Iran Sanctions, Accountability,
7	and Divestment Act of 2010 (22 U.S.C.
8	8541(13)) may not be enrolled in a registered
9	traveler program.".
10	SEC. 4508. VISA PROCESSING.
11	(a) In General.—Notwithstanding any other provi-
12	sion of law and not later than 90 days after the date of
13	the enactment of this Act, the Secretary of State shall—
14	(1) require United States diplomatic and con-
15	sular missions—
16	(A) to conduct visa interviews for non-
17	immigrant visa applications determined to re-
18	quire a consular interview in an expeditious
19	manner, consistent with national security re-
20	quirements, and in recognition of resource allo-
21	cation considerations, such as the need to en-
22	sure provision of consular services to citizens of
23	the United States;
24	(B) to set a goal of interviewing 80 percent
25	of all nonimmigrant visa applicants, worldwide,

1	within 3 weeks of receipt of application, subject
2	to the conditions outlined in subparagraph (A);
3	and
4	(C) to explore expanding visa processing
5	capacity in China and Brazil, with the goal of
6	maintaining interview wait times under 15 work
7	days on a consistent, year-round basis, recog-
8	nizing that demand can spike suddenly and un-
9	predictably and that the first priority of United
10	States missions abroad is the protection of citi-
11	zens of the United States; and
12	(2) submit to the appropriate committees of
13	Congress a detailed strategic plan that describes the
14	resources needed to carry out paragraph (1)(A).
15	(b) Appropriate Committees of Congress.—In
16	this section, the term "appropriate committees of Con-
17	gress" means—
18	(1) the Committee on the Judiciary, the Com-
19	mittee on Foreign Relations, and the Committee on
20	Appropriations of the Senate; and
21	(2) the Committee on the Judiciary, the Com-
22	mittee on Foreign Affairs, and the Committee on
23	Appropriations of the House of Representatives.
24	(c) Semi-Annual Report.—Not later than 30 days
25	after the end of the first 6 months after the implementa-

1	tion of subsection (a), and not later than 30 days after
2	the end of each subsequent quarter, the Secretary of State
3	shall submit to the appropriate committees of Congress
4	a report that provides—
5	(1) data substantiating the efforts of the Sec-
6	retary of State to meet the requirements and goals
7	described in subsection (a);
8	(2) any factors that have negatively impacted
9	the efforts of the Secretary to meet such require-
10	ments and goals; and
11	(3) any measures that the Secretary plans to
12	implement to meet such requirements and goals.
13	(d) Savings Provision.—
14	(1) In general.—Nothing in subsection (a)
15	may be construed to affect a consular officer's au-
16	thority—
17	(A) to deny a visa application under sec-
18	tion 221(g) of the Immigration and Nationality
19	Act (8 U.S.C. 1201(g)); or
20	(B) to initiate any necessary or appro-
21	priate security-related check or clearance.
22	(2) Security Checks.—The completion of a
23	security-related check or clearance shall not be sub-
24	ject to the time limits set out in subsection (a)

1	SEC. 4509. B VISA FEE.
2	Section 281 (8 U.S.C. 1351), as amended by sections
3	4105, 4407, and 4408, is further amended by adding at
4	the end the following:
5	"(g) B VISA FEE.—In addition to the fees authorized
6	under subsection (a), the Secretary of Homeland Security
7	shall collect a \$5 fee from each nonimmigrant admitted
8	under section $101(a)(15)(B)$. Fees collected under this
9	subsection shall be deposited into the Comprehensive Im-
10	migration Reform Trust Fund established under section
11	6(a)(1) of the Illegal Immigration Reform and Immigrant
12	Responsibility Act of 1996.".
	1 0
13	Subtitle F—Reforms to the H-2B
13	Subtitle F—Reforms to the H-2B
13 14	Subtitle F—Reforms to the H-2B Visa Program
131415	Subtitle F—Reforms to the H-2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP-
13 14 15 16	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION.
13 14 15 16 17	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION. (a) IN GENERAL.—
13 14 15 16 17 18	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION. (a) IN GENERAL.— (1) IN GENERAL.—Subparagraph (A) of para-
13 14 15 16 17 18	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION. (a) IN GENERAL.— (1) IN GENERAL.—Subparagraph (A) of paragraph (10) of section 214(g) (8 U.S.C. 1184(g)), as
13 14 15 16 17 18 19 20	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION. (a) IN GENERAL.— (1) IN GENERAL.—Subparagraph (A) of paragraph (10) of section 214(g) (8 U.S.C. 1184(g)), as redesignated by section 4101(a)(3), is amended by
13 14 15 16 17 18 19 20 21	Subtitle F—Reforms to the H–2B Visa Program SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP- TION TO H–2B NUMERICAL LIMITATION. (a) IN GENERAL.— (1) IN GENERAL.—Subparagraph (A) of paragraph (10) of section 214(g) (8 U.S.C. 1184(g)), as redesignated by section 4101(a)(3), is amended by striking "fiscal year 2004, 2005, or 2006 shall not

fiscal years 2014 through 2018.".

1	(2) Effective period.—The amendment
2	made by paragraph (1) shall be effective during the
3	period beginning on the effective date described in
4	subsection (c) and ending on September 30, 2018.
5	(b) Technical and Clarifying Amendments.—
6	(1) Nonimmigrant status.—Section
7	101(a)(15)(P) (8 U.S.C. 1101(a)(15)(P)) is amend-
8	ed —
9	(A) in clause (iii), by striking "or" at the
10	end;
11	(B) in clause (iv), by striking "clause (i),
12	(ii), or (iii)," and inserting "clause (i), (ii), (iii),
13	or (iv)";
14	(C) by redesignating clause (iv) as clause
15	(v); and
16	(D) by inserting after clause (iii) the fol-
17	lowing:
18	"(iv) is a ski instructor, who has been
19	certified as a level I, II, or III ski and
20	snowboard instructor by the Professional
21	Ski Instructors of America or the Amer-
22	ican Association of Snowboard Instructors,
23	or received an equivalent certification in
24	the alien's country of origin, and is seeking

1	to enter the United States temporarily to
2	perform instructing services; or".
3	(2) Authorized period of stay; numerical
4	LIMITATION.—Section 214(a)(2)(B) (8 U.S.C.
5	1184(a)(2)(B)) is amended in the second sentence—
6	(A) by inserting "or ski instructors" after
7	"athletes"; and
8	(B) by inserting "or ski instructor" after
9	"athlete".
10	(3) Construction.—Nothing in the amend-
11	ments made by this subsection may be construed as
12	preventing an alien who is a ski instructor from ob-
13	taining nonimmigrant status under section
14	101(a)(15)(H)(ii)(b) of the Immigration and Nation-
15	ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) if such
16	alien is otherwise qualified for such status.
17	(c) Effective Date.—The amendment made by
18	subsection (a) shall take effect as if enacted on January
19	1, 2013.
20	SEC. 4602. OTHER REQUIREMENTS FOR H-2B EMPLOYERS.
21	Section 214 (8 U.S.C. 1184), as amended by sections
22	3609, 4233, 4405, 4503, and 4504, is further amended
23	by adding at the end the following:
24	"(x) Requirements for H-2B Employers.—

1	"(1) H–2B nonimmigrant defined.—In this
2	subsection the term 'H–2B nonimmigrant' means an
3	alien admitted to the United States pursuant to sec-
4	tion $101(a)(15)(H)(ii)(B)$.
5	"(2) Non-displacement of united states
6	WORKERS.—An employer who seeks to employ an
7	H-2B nonimmigrant admitted in an occupational
8	classification shall certify and attest that the em-
9	ployer did not displace and will not displace a
10	United States worker employed by the employer in
11	the same metropolitan statistical area where such
12	nonimmigrant will be hired within the period begin-
13	ning 90 days before the start date and ending on the
14	end date for which the employer is seeking the serv-
15	ices of such nonimmigrant as specified on an appli-
16	cation for labor certification under this Act.
17	"(3) Transportation costs.—The employer
18	shall pay the transportation costs, including reason-
19	able subsistence costs during the period of travel, for
20	an H–2B nonimmigrant hired by the employer—
21	"(A) from the place of recruitment to the
22	place of such nonimmigrant's employment; and
23	"(B) from the place of employment to such
24	nonimmigrant's place of permanent residence or

a subsequent worksite.

1	"(4) PAYMENT OF FEES.—A fee related to the
2	hiring of an H–2B nonimmigrant required to be
3	paid by an employer under this Act shall be paid by
4	the employer and may not be deducted from the
5	wages or other compensation paid to an H–2B non-
6	immigrant.

"(5) H–2B NONIMMIGRANT LABOR CERTIFI-CATION APPLICATION FEE.—

"(A) IN GENERAL.—To recover costs of carrying out labor certification activities under the H–2B program, the Secretary of Labor shall impose a \$500 fee on an employer that submits an application for an employment certification for aliens granted H–2B non-immigrant status to the Secretary of Labor under this subparagraph on or after the date that is 30 days after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.".

"(B) USE OF FEES.—The fees collected under subparagraph (A) shall be deposited in the Comprehensive Immigration Reform Trust Fund established under section 6 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.".

1 SEC. 4603. EXECUTIVES AND MANAGERS.

2	Section $214(a)(1)$ (8 U.S.C. $1184(a)(1)$) is amended
3	by adding at the end the following: "Aliens admitted under
4	section 101(a)(15) should include—
5	"(A) executives and managers employed by a
6	firm or corporation or other legal entity or an affil-
7	iate or subsidiary thereof who are principally sta-
8	tioned abroad and who seek to enter the United
9	States for periods of 90 days or less to oversee and
10	observe the United States operations of their related
11	companies, and establish strategic objectives when
12	needed; or
13	"(B) employees of multinational corporations
14	who enter the United States to observe the oper-
15	ations of a related United States company and par-
16	ticipate in select leadership and development train-
17	ing activities, whether or not the activity is part of
18	a formal or classroom training program for a period
19	not to exceed 180 days.
20	Nonimmigrant aliens admitted pursuant to section
21	101(a)(15) and engaged in the activities described in
22	the subparagraph (A) or (B) may not receive a sal-
23	ary from a United States source, except for inci-
24	dental expenses for meals, travel, lodging and other
25	basic services.".

1 SEC. 4604. HONORARIA.

- 2 Section 212(q) (8 U.S.C. 1182(q)) is amended to
- 3 read as follows:
- 4 "(q)(1) Any alien admitted under section
- 5 101(a)(15)(B) may accept an honorarium payment and
- 6 associated incidental expenses, for a usual academic activ-
- 7 ity or activities (lasting not longer than 9 days at any sin-
- 8 gle institution), as defined by the Attorney General in con-
- 9 sultation with the Secretary of Education, or for a per-
- 10 formance, appearance and participation in United States
- 11 based programming, including scripted or unscripted pro-
- 12 gramming (with services not rendered for more than 60
- 13 days in a 6 month period) if the alien has received a letter
- 14 of invitation from the institution, organization, or media
- 15 outlet, such payment is offered by an institution, organiza-
- 16 tion, or media outlet described in paragraph (2) and is
- 17 made for services conducted for the benefit of that institu-
- 18 tion, entity or media outlet and if the alien has not accept-
- 19 ed such payment or expenses from more than 5 institu-
- 20 tions, organizations, or media outlets in the previous 6-
- 21 month period. Any alien who is admitted under section
- 22 101(a)(15)(B) or any other valid visa may perform serv-
- 23 ices under this section without reentering the United
- 24 States and without a letter of invitation, if the alien does
- 25 not receive any remuneration including an honorarium

1	payment or incidental expenses, but may receive prize
2	money.
3	"(2) An institution, organization, or media outlet de-
4	scribed in this paragraph—
5	"(A) an institution of higher education (as de-
6	fined in section 101(a) of the Higher Education Act
7	of 1965 (20 U.S.C. 1001(a))) or a related or affili-
8	ated nonprofit entity;
9	"(B) a nonprofit research organization or a
10	governmental research organization; and
11	"(C) a broadcast network, cable entity, produc-
12	tion company, new media, internet and mobile based
13	companies, who create or distribute programming
14	content.".
15	SEC. 4605. NONIMMIGRANTS PARTICIPATING IN RELIEF OP-
16	ERATIONS.
17	Section 214 (8 U.S.C. 1184), as amended by sections
18	3609, 4233, 4405, 4503, 4504, and 4602, is further
19	amended by adding at the end following:
20	"(y) Nonimmigrants Participating in Relief
21	OPERATIONS.—
22	"(1) In general.—An alien coming individ-
23	ually, or aliens coming as a group, to participate in
24	relief operations, including critical infrastructure re-
25	pairs or improvements, needed in response to a Fed-

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1	eral or State declared emergency or disaster, may be
2	admitted to the United States pursuant to section
3	101(a)(15)(B) for a period of not more than 90 days
4	if each such alien has been employed in a foreign
5	country by 1 employer for not less than 1 year prior
6	to the date the alien is so admitted.
7	"(2) Prohibition on direct payments from
8	A UNITED STATES SOURCE.—During a period of ad-
9	mission pursuant to paragraph (1), an alien may not
10	receive direct payments from a United States source,
11	except for incidental expenses for meals, travel, lodg-
12	ing, and other basic services.".
13	SEC. 4606. NONIMMIGRANTS PERFORMING MAINTENANCE
14	ON COMMON CARRIERS.
15	Section 214 (8 U.S.C. 1184), as amended by sections
16	3609, 4233, 4405, 4503, 4504, 4602, and 4603, is further
17	amended by adding at the end following:
18	"(z) Nonimmigrants Performing Maintenance
19	ON COMMON CARRIER.—
20	"(1) In general.—An alien coming individ-
21	ually, or aliens coming as a group, who possess spe-
22	cialized knowledge to perform maintenance or re-

pairs for common carriers, including to airlines,

cruise lines, and railways, if such maintenance or re-

pairs are occurring to equipment or machinery man-

23

24

ufactured outside of the United States and are needed of for purposes relating to life, health, and safety, may be admitted to the United States pursuant to section 101(a)(15)(B) for a period of not more than 90 days if each such alien has been employed in a foreign country by 1 employer for not less than 1 year prior to the date the alien is so admitted.

"(2) Prohibition on income from a united states source.—During a period of admission pursuant to paragraph (1), an alien may not receive income from a United States source, except for incidental expenses for meals, travel, lodging, and other basic services.

"(3) Fee.—

"(A) IN GENERAL.—An alien admitted pursuant to paragraph (1) shall pay a fee of \$500 in addition to any fee assessed to cover the costs to process an application under this subsection.

"(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.".

1	SEC. 4607. AMERICAN JOBS IN AMERICAN FORESTS.
2	(a) SHORT TITLE.—This section may be cited as the
3	"American Jobs in American Forests Act of 2013".
4	(b) DEFINITIONS.—In this section:
5	(1) Forestry.—The term "forestry" means—
6	(A) propagating, protecting, and managing
7	forest tracts;
8	(B) felling trees and cutting them into
9	$\log s;$
10	(C) using hand tools or operating heavy
11	powered equipment to perform activities such as
12	preparing sites for planting, tending crop trees,
13	reducing competing vegetation, moving logs, pil-
14	ing brush, and yarding and trucking logs from
15	the forest; and
16	(D) planting seedlings and trees.
17	(2) H–2B NONIMMIGRANT.—The term "H–2B
18	nonimmigrant" means a nonimmigrant described in
19	section $101(a)(15)(H)(ii)(b)$ of the Immigration and
20	Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).
21	(3) Prospective H-2B employer.—The term
22	"prospective H–2B employer" means a United
23	States business that is considering employing 1 or
24	more nonimmigrants described in section
25	101(a)(15)(H)(ii)(b) of the Immigration and Nation-

ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

1	(4) State workforce agency.—The term
2	"State workforce agency" means the workforce
3	agency of the State in which the prospective H–2B
4	employer intends to employ H–2B nonimmigrants.
5	(c) Department of Labor.—
6	(1) Recruitment.—As a component of the
7	labor certification process required before H–2B
8	nonimmigrants are offered forestry employment in
9	the United States, the Secretary of Labor shall re-
10	quire all prospective H-2B employers, before they
11	submit a petition to hire H-2B nonimmigrants to
12	work in forestry, to conduct a robust effort to re-
13	cruit United States workers, including, to the extent
14	the State workforce agency considers appropriate—
15	(A) advertising at employment or job-
16	placement events, such as job fairs;
17	(B) placing the job opportunity with the
18	State workforce agency and working with such
19	agency to identify qualified and available
20	United States workers;
21	(C) advertising in appropriate media, in-
22	cluding local radio stations and commonly used,
23	reputable Internet job-search sites; and
24	(D) such other recruitment efforts as the
25	State workforce agency considers appropriate

1	for the sector or positions for which H–2B non-
2	immigrants would be considered.
3	(2) Separate certifications and peti-
4	TIONS.—A prospective H–2B employer shall submit
5	a separate application for temporary employment
6	certification and petition for each State in which the
7	employer plans to employ H-2B nonimmigrants in
8	forestry for a period of 7 days or longer. The Sec-
9	retary of Labor shall review each application for
10	temporary employment certification and decide sepa-
11	rately whether certification is warranted.
12	(d) STATE WORKFORCE AGENCIES.—The Secretary
13	of Labor may not grant a temporary labor certification
14	to a prospective H–2B employer seeking to employ H–2B
15	nonimmigrants in forestry until after the Director of the
16	State workforce agency, in each State in which such work-
17	ers are sought—
18	(1) submits a report to the Secretary of Labor
19	certifying that—
20	(A) the employer has complied with all re-
21	cruitment requirements set forth in subsection
22	(c)(1) and there is legitimate demand for the
23	employment of H-2B nonimmigrants in each of
24	those States; or

1	(B) the employer has amended the applica-
2	tion by removing or making appropriate modi-
3	fications with respect to the States in which the
4	criteria set forth in subparagraph (A) have not
5	been met; and
6	(2) makes a formal determination that nation-
7	als of the United States are not qualified or avail-
8	able to fill the employment opportunities offered by
9	the prospective H–2B employer.
10	Subtitle G—W Nonimmigrant Visas
11	SEC. 4701. BUREAU OF IMMIGRATION AND LABOR MARKET
12	RESEARCH.
13	(a) Definitions.—In this section:
14	(1) Bureau.—Except as otherwise specifically
15	provided, the term "Bureau" means the Bureau of
16	Immigration and Labor Market Research established
17	under subsection (b).
18	(2) Commissioner.—The term "Commis-
19	sioner" means the Commissioner of the Bureau.
20	(3) Construction occupation.—The term
21	"construction occupation" means an occupation clas-
22	sified by the Bureau of Labor Statistics as being
23	
23	within the construction industry for the purposes of

1	(4) Metropolitan statistical area.—The
2	term "metropolitan statistical area" means a geo-
3	graphic area designated as a metropolitan statistical
4	area by the Director of the Office of Management
5	and Budget.
6	(5) Shortage occupation.—The term "short-
7	age occupation" means an occupation that the Com-
8	missioner determines is experiencing a shortage of
9	labor—
10	(A) throughout the United States; or
11	(B) in a specific metropolitan statistical
12	area.
13	(6) W VISA PROGRAM.—The term "W Visa Pro-
14	gram" means the program for the admission of non-
15	immigrant aliens described in subparagraph (W)(i)
16	of section 101(a)(15) of the Immigration and Na-
17	tionality Act (8 U.S.C. 1101(a)(15)), as added by
18	section 4702.
19	(7) Zone 1 occupation.—The term "zone 1
20	occupation" means an occupation that requires little
21	or no preparation and is classified as a zone 1 occu-
22	pation on—
23	(A) the Occupational Information Network
24	Database (O*NET) on the date of the enact-
25	ment of this Act; or

1	(B) such Database or a similar successor
2	database, as designated by the Secretary of
3	Labor, after the date of the enactment of this
4	Act.
5	(8) ZONE 2 OCCUPATION.—The term "zone 2
6	occupation" means an occupation that requires some
7	preparation and is classified as a zone 2 occupation
8	on—
9	(A) the Occupational Information Network
10	Database (O*NET) on the date of the enact-
11	ment of this Act; or
12	(B) such Database or a similar successor
13	database, as designated by the Secretary of
14	Labor, after the date of the enactment of this
15	Act.
16	(9) Zone 3 occupation.—The term "zone 3
17	occupation" means an occupation that requires me-
18	dium preparation and is classified as a zone 3 occu-
19	pation on—
20	(A) the Occupational Information Network
21	Database (O*NET) on the date of the enact-
22	ment of this Act; or
23	(B) such Database or a similar successor
24	database, as designated by the Secretary of

1	Labor, after the date of the enactment of this
2	Act.
3	(b) Establishment.—There is established a Bureau
4	of Immigration and Labor Market Research as an inde-
5	pendent statistical agency within U.S. Citizenship and Im-
6	migration Services.
7	(c) COMMISSIONER.—The head of the Bureau of Im-
8	migration and Labor Market Research is the Commis-
9	sioner, who shall be appointed by the President, by and
10	with the advice and consent of the Senate.
11	(d) Duties.—The duties of the Commissioner are
12	limited to the following:
13	(1) To devise a methodology subject to publica-
14	tion in the Federal Register and an opportunity for
15	public comment regarding the calculation for the
16	index referred to in section $220(g)(2)(C)$ of the Im-
17	migration and Nationality Act, as added by section
18	4703.
19	(2) To determine and to publish in the Federal
20	Register the annual change to the numerical limita-
21	tion for nonimmigrant aliens described in subpara-
22	graph (W)(i) of section 101(a)(15) of the Immigra-
23	tion and Nationality Act (8 U.S.C. 1101(a)(15)), as
24	added by section 4702.

- 1 (3) With respect to the W Visa Program, to 2 supplement the recruitment methods employers may 3 use to attract United States workers and current 4 nonimmigrant aliens described in paragraph (2).
 - (4) With respect to the W Visa Program, to devise a methodology subject to publication in the Federal Register and an opportunity for public comment to designate shortage occupations in zone 1 occupations, zone 2 occupations, and zone 3 occupations. Such methodology must designated Alaskan seafood processing in zones 1, 2, and 3 as shortage occupations.
 - (5) With respect to the W Visa Program, to designate shortage occupations in any zone 1 occupation, zone 2 occupation, or zone 3 occupation and publish such occupations in the Federal Register. Alaskan seafood processing in zones 1, 2, and 3 must be designated as shortage occupations.
 - (6) With respect to the W Visa Program, to conduct a survey once every 3 months of the unemployment rate of zone 1 occupations, zone 2 occupations, or zone 3 occupations that are construction occupations in each metropolitan statistical area.
 - (7) To study and report to Congress on employment-based immigrant and nonimmigrant visa pro-

1	grams in the United States and to make annual rec-
2	ommendations to improve such programs.
3	(8) To carry out any functions required to per-
4	form the duties described in paragraphs (1) through
5	(7).
6	(e) Determination of Changes to Numerical
7	LIMITATIONS.—The methodology required under sub-
8	section (d)(1) shall be published in the Federal Register
9	not later than 18 months after the date of the enactment
10	of this Act.
11	(f) Designation of Shortage Occupations.—
12	(1) Methods to determine.—The Commis-
13	sioner shall—
14	(A) establish the methodology to designate
15	shortage occupations under subsection (d)(4);
16	and
17	(B) publish such methodology in the Fed-
18	eral Register not later than 18 months after the
19	date of the enactment of this Act.
20	(2) Petition by employer.—The method-
21	ology established under paragraph (1) shall permit
22	an employer to petition the Commissioner for a de-
23	termination that a particular occupation in a par-
24	ticular metropolitan statistical area is a shortage oc-
25	cupation.

1	(3) Requirement for notice and com-
2	MENT.—The methodology established under para-
3	graph (1) shall be effective only after publication in
4	the Federal Register and an opportunity for public
5	comment.
6	(g) Employee Expertise.—The employees of the
7	Bureau shall have the expertise necessary to identify labor
8	shortages in the United States and make recommenda-
9	tions to the Commissioner on the impact of immigrant and
10	nonimmigrant aliens on labor markets in the United
11	States, including expertise in economics, labor markets,
12	demographics and methods of recruitment of United
13	States workers.
14	(h) Interagency Cooperation.—At the request of
15	the Commissioner, the Secretary of Commerce, the Direc-
16	tor of the Bureau of the Census, the Secretary of Labor,
17	and the Commissioner of the Bureau of Labor Statistics
18	shall—
19	(1) provide data to the Commissioner;
20	(2) conduct appropriate surveys; and
21	(3) assist the Commissioner in preparing the
22	recommendations referred to subsection (d)(5).
23	(i) Budget.—
24	(1) Report.—Not later than 1 year after the
25	date of the enactment of this Act the Director of

- U.S. Citizenship and Immigration Services shall submit to Congress a report of the estimated budget that the Bureau will need to carry out the duties described in subsection (d).
- 5 (2) AUDIT.—The Comptroller General of the 6 United States shall submit to Congress a report that 7 is an audit of the budget prepared by the Director 8 under paragraph (1).

(j) Funding.—

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- (1) APPROPRIATION OF FUNDS.—There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, \$20,000,000 to establish the Bureau.
- (2) USE OF W NONIMMIGRANT FEES.—The amounts collected for fees under section 220(e)(6)(B) of the Immigration and Nationality Act, as added by section 4703, shall be used to establish and fund the Bureau.
- 19 (3) OTHER FEES.—The Secretary may establish 20 other fees for the sole purpose of funding the W 21 Visa Program, including the Bureau, that are re-22 lated to the hiring of alien workers.

1	SEC. 4702. NONIMMIGRANT CLASSIFICATION FOR W NON-
2	IMMIGRANTS.
3	Section 101(a)(15)(W), as added by section 2211, is
4	amended by inserting before clause (iii) the following:
5	"(i) to perform services or labor for a
6	registered nonagricultural employer in a
7	registered position (as those terms are de-
8	fined in section 220(a)) in accordance with
9	the requirements under section 220;
10	"(ii) to accompany or follow to join
11	such an alien described in clause (i) as the
12	spouse or child of such alien;".
13	SEC. 4703. ADMISSION OF W NONIMMIGRANT WORKERS.
14	(a) In General.—Chapter 2 of title II (8 U.S.C.
15	1181 et seq.) is amended by adding at the end the fol-
16	lowing:
17	"SEC. 220. ADMISSION OF W NONIMMIGRANT WORKERS.
18	"(a) Definitions.—In this section:
19	"(1) Bureau.—The term 'Bureau' means the
20	Bureau of Immigration and Labor Market Research
21	established by section 4701 of the Illegal Immigra-
22	tion Reform and Immigrant Responsibility Act of
23	1996.
24	"(2) CERTIFIED ALIEN.—The term 'certified
25	alien' means an alien that the Secretary of State has
26	certified is eligible to be a W nonimmigrant if the

1	alien is hired by a registered employer for a reg-
2	istered position.
3	"(3) Commissioner.—The term 'Commis-
4	sioner' means the Commissioner of the Bureau.
5	"(4) Construction occupation.—The term
6	'construction occupation' means an occupation de-
7	fined by the Bureau of Labor Statistics as being
8	within the construction industry for the purposes of
9	publishing the Bureau's workforce statistics.
10	"(5) Department.—Except as otherwise pro-
11	vided, the term 'Department' means the Department
12	of Homeland Security.
13	"(6) ELIGIBLE OCCUPATION.—The term 'eligi-
14	ble occupation' means an eligible occupation de-
15	scribed in subsection (e)(3).
16	"(7) Employer.—
17	"(A) IN GENERAL.—The term 'employer'
18	means any person or entity hiring an individual
19	for employment in the United States.
20	"(B) Treatment of single em-
21	PLOYER.—For purposes of determining the
22	number of employees or United States workers
23	employed by an employer, a single entity shall
24	be treated as 1 employer.

1	"(8) EXCLUDED GEOGRAPHIC LOCATION.—The
2	term 'excluded geographic location' means an ex-
3	cluded geographic location described in subsection
4	(f).

- "(9) Initial W nonimmigrant' means a certified alien issued a W nonimmigrant visa by the Secretary of State pursuant to section 101(a)(15)(W)(i) in order to seek initial admission to the United States to commence employment for a registered employer in a registered position subject to the numerical limit at section 220(g).
 - "(10) Metropolitan statistical area' means a geographic area designated as a metropolitan statistical area by the Director of the Office of Management and Budget.
 - "(11) REGISTERED EMPLOYER.—The term 'registered employer' means a nonagricultural employer that the Secretary has designated as a registered employer under subsection (d).
- "(12) Secretary.—Except as otherwise specifically provided, the term 'Secretary' means the Secretary of Homeland Security.

1	"(13) SINGLE ENTITY.—The term 'single enti-
2	ty' means any group treated as a single employer
3	under subsection (b), (c), (m), or (o) of section 414
4	of the Internal Revenue Code of 1986.
5	"(14) SHORTAGE OCCUPATION.—The term
6	'shortage occupation' means a shortage occupation
7	designated by the Commissioner pursuant to section
8	4701(d)(4) of the Illegal Immigration Reform and
9	Immigrant Responsibility Act of 1996.
10	"(15) Small business.—The term 'small busi-
11	ness' means an employer that employs 25 or fewer
12	full-time equivalent employees.
13	"(16) United States Worker.—The term
14	'United States worker' means an individual who is—
15	"(A) employed or seeking employment in
16	the United States; and
17	"(B)(i) a national of the United States;
18	"(ii) an alien lawfully admitted for perma-
19	nent residence;
20	"(iii) an alien in Registered Provisional
21	Immigrant Status; or
22	"(iv) any other alien authorized to work in
23	the United States with no limitation as to the
24	alien's employer.

1	"(17) W NONIMMIGRANT.—The term 'W non-
2	immigrant' means an alien admitted as a non-
3	immigrant pursuant to section 101(a)(15)(W)(i).
4	"(18) W NONIMMIGRANT VISA.—The term 'W
5	nonimmigrant visa' means a visa issued to a cer-
6	tified alien by the Secretary of State pursuant to
7	section $101(a)(15)(W)(i)$.
8	"(19) W VISA PROGRAM.—The term 'W Visa
9	Program' means the program for the admission of
10	nonimmigrant aliens described in section
11	101(a)(15)(W)(i).
12	"(20) Zone 1 occupation.—The term 'zone 1
13	occupation' means an occupation that requires little
14	or no preparation and is classified as a zone 1 occu-
15	pation on—
16	"(A) the Occupational Information Net-
17	work Database (O*NET) on the date of the en-
18	actment of the Illegal Immigration Reform and
19	Immigrant Responsibility Act of 1996; or
20	"(B) such Database or a similar successor
21	database, as designated by the Secretary of
22	Labor, after the date of the enactment of the
23	Illegal Immigration Reform and Immigrant Re-
24	sponsibility Act of 1996.

1	"(21) ZONE 2 OCCUPATION.—The term 'zone 2
2	occupation' means an occupation that requires some
3	preparation and is classified as a zone 2 occupation
4	on—
5	"(A) the Occupational Information Net-
6	work Database (O*NET) on the date of the en-
7	actment of the Illegal Immigration Reform and
8	Immigrant Responsibility Act of 1996; or
9	"(B) such Database or a similar successor
10	database, as designated by the Secretary of
11	Labor, after the date of the enactment of the
12	Illegal Immigration Reform and Immigrant Re-
13	sponsibility Act of 1996.
14	"(22) Zone 3 occupation.—The term 'zone 3
15	occupation' means an occupation that requires me-
16	dium preparation and is classified as a zone 3 occu-
17	pation on—
18	"(A) the Occupational Information Net-
19	work Database (O*NET) on the date of the en-
20	actment of the Illegal Immigration Reform and
21	Immigrant Responsibility Act of 1996; or
22	"(B) such Database or a similar successor
23	database, as designated by the Secretary of
24	Labor, after the date of the enactment of the

1	Illegal Immigration Reform and Immigrant Re-
2	sponsibility Act of 1996.
3	"(b) Admission Into the United States.—
4	"(1) W nonimmigrants.—Subject to this sec-
5	tion, a certified alien is eligible to be admitted to the
6	United States as a W nonimmigrant if the alien is
7	hired by a registered employer for employment in a
8	registered position in a location that is not an ex-
9	cluded geographic location.
10	"(2) SPOUSE AND MINOR CHILDREN.—The—
11	"(A) alien spouse and minor children of a
12	W nonimmigrant may be admitted to the
13	United States pursuant to clause (ii) of section
14	101(a)(15)(W) during the period of the prin-
15	cipal W nonimmigrant's admission; and
16	"(B) such alien spouse shall be—
17	"(i) authorized to engage in employ-
18	ment in the United States during such pe-
19	riod of admission; and
20	"(ii) provided with an employment au-
21	thorization document, stamp, or other ap-
22	propriate work permit.
23	"(c) W Nonimmigrants.—
24	"(1) CERTIFIED ALIEN.—

1	"(A) APPLICATION.—An alien seeking to
2	be a W nonimmigrant shall apply to the Sec-
3	retary of State at a United States embassy or
4	consulate in a foreign country to be a certified
5	alien.
6	"(B) Criteria.—An alien is eligible to be
7	a certified alien if the alien—
8	"(i) is not inadmissible under this
9	Act;
10	"(ii) passes a criminal background
11	check;
12	"(iii) agrees to accept only registered
13	positions in the United States; and
14	"(iv) meets other criteria as estab-
15	lished by the Secretary.
16	"(2) W nonimmigrant status.—Only an alien
17	that is a certified alien may be admitted to the
18	United States as a W nonimmigrant.
19	"(3) Initial employment.—A W non-
20	immigrant shall report to such nonimmigrant's ini-
21	tial employment in a registered position not later
22	than 14 days after such nonimmigrant is admitted
23	to the United States.
24	"(4) Term of admission.—

1	"(A) Initial term.—A certified alien may
2	be granted W nonimmigrant status for an ini-
3	tial period of 3 years.
4	"(B) Renewal.—A W nonimmigrant may
5	renew his or her status as a W nonimmigrant
6	for additional 3-year periods. Such a renewal
7	may be made while the W nonimmigrant is in
8	the United States and shall not require the
9	alien to depart the United States.
10	"(5) Periods of Unemployment.—A W non-
11	immigrant—
12	"(A) may be unemployed for a period of
13	not more than 60 consecutive days; and
14	"(B) shall depart the United States if such
15	W nonimmigrant is unable to obtain employ-
16	ment during such period.
17	"(6) Travel.—A W nonimmigrant may travel
18	outside the United States and be readmitted to the
19	United States. Such travel may not extend the pe-
20	riod of authorized admission of such W non-
21	immigrant.
22	"(d) Registered Employer.—
23	"(1) APPLICATION.—An employer seeking to be
24	a registered employer shall submit an application to

1	the Secretary. Each such application shall include
2	the following:
3	"(A) Documentation to establish that the
4	employer is a bona-fide employer.
5	"(B) The employer's Federal tax identi-
6	fication number or employer identification num-
7	ber issued by the Internal Revenue Service.
8	"(C) The number of W nonimmigrants the
9	employer estimates it will seek to employ annu-
10	ally.
11	"(2) Referral for fraud investigation.—
12	The Secretary may refer an application submitted
13	under paragraph (1) or subsection (e)(1)(A) to the
14	Fraud Detection and National Security Directorate
15	of U.S. Citizenship and Immigration Services if
16	there is evidence of fraud for potential investigation.
17	"(3) Ineligible employers.—
18	"(A) In General.—Notwithstanding any
19	other applicable penalties under law, the Sec-
20	retary may deny an employer's application to be
21	a registered employer if the Secretary deter-
22	mines, after notice and an opportunity for a
23	hearing, that the employer submitting such ap-
24	plication—

1	"(i) has, with respect to the applica-
2	tion required under paragraph (1), includ-
3	ing any attestations required by law—
4	"(I) knowingly misrepresented a
5	material fact;
6	"(II) knowingly made a fraudu-
7	lent statement; or
8	"(III) knowingly failed to comply
9	with the terms of such attestations; or
10	"(ii) failed to cooperate in the audit
11	process in accordance with regulations pro-
12	mulgated by the Secretary;
13	"(iii) has been convicted of an offense
14	set out in chapter 77 of title 18, United
15	States Code, or any conspiracy to commit
16	such offenses, or any human trafficking of-
17	fense under State or territorial law;
18	"(iv) has, within 2 years prior to the
19	date of application—
20	"(I) received a final adjudication
21	of having committed any hazardous
22	occupation orders violation resulting
23	in injury or death under the child
24	labor provisions contained in section
25	12 of the Fair Labor Standards Act

1	of 1938 (29 U.S.C. 211) and any per-
2	tinent regulation;
3	"(II) received a final adjudication
4	assessing a civil money penalty for
5	any repeated or willful violation of the
6	minimum wage provisions of section 6
7	of the Fair Labor Standards Act of
8	1938 (29 U.S.C. 206); or
9	"(III) received a final adjudica-
10	tion assessing a civil money penalty
11	for any willful violation of the over-
12	time provisions of section 7 of the
13	Fair Labor Standards Act of 1938 or
14	any regulations thereunder; or
15	"(v) has, within 2 years prior to the
16	date of application, received a final adju-
17	dication for a willful violation or repeated
18	serious violations involving injury or
19	death—
20	"(I) of section 5 of the Occupa-
21	tional Safety and Health Act of 1970
22	(29 U.S.C. 654);
23	"(II) of any standard, rule, or
24	order promulgated pursuant to section
25	6 of the Occupational Safety and

1	Health Act of 1970 (29 U.S.C. 655);
2	or
3	"(III) of a plan approved under
4	section 18 of the Occupational Safety
5	and Health Act of 1970 (29 U.S.C.
6	667).
7	"(B) LENGTH OF INELIGIBILITY.—
8	"(i) Temporary ineligibility.—An
9	employer described in subparagraph (A)
10	may be ineligible to be a registered em-
11	ployer for a period that is not less than the
12	time period determined by the Secretary
13	and not more than 3 years.
14	"(ii) Permanent ineligibility.—
15	An employer who has been convicted of
16	any offense set out in chapter 77 of title
17	18, United States Code, or any conspiracy
18	to commit such offenses, or any human
19	trafficking offense under State or terri-
20	torial law shall be permanently ineligible to
21	be a registered employer.
22	"(4) Term of registration.—The Secretary
23	shall approve applications meeting the criteria of
24	this subsection for a term of 3 years.

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1	"(5) Renewal.—An employer may submit an
2	application to renew the employer's status as a reg-
3	istered employer for additional 3-year periods.
4	"(6) Fee.—At the time an employer's applica-
5	tion to be a registered employer or to renew such
6	status is approved, such employer shall pay a fee in
7	an amount determined by the Secretary to be suffi-

istered employer shall submit to the Secretary an annual report that demonstrates that the registered employer has provided the wages and working conditions the registered employer agreed to provide to its

cient to cover the costs of the registry of such em-

employees.

ployers.

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"(e) Registered Positions.—

"(1) In general.—

"(A) APPLICATION.—Each registered employer shall submit to the Secretary an application to designate a position for which the employer is seeking a W nonimmigrant as a registered position. The Secretary is authorized to determine if the wage to be paid by the employer complies with subparagraph (B)(iv).

1	Each such application shall include a descrip-
2	tion of each such position.
3	"(B) Attestation.—An application sub-
4	mitted under subparagraph (A) shall include an
5	attestation of the following:
6	"(i) The number of full-time equiva-
7	lent employees of the employer.
8	"(ii) The occupational category, as
9	classified by the Secretary of Labor, for
10	which the registered position is sought.
11	"(iii) Whether the occupation for
12	which the registered position is sought is a
13	shortage occupation.
14	"(iv) Except as provided in subsection
15	(g)(4)(C)(i), the wages to be paid to W
16	nonimmigrants employed by the employer
17	in the registered position, including a posi-
18	tion in a shortage occupation, will be the
19	greater of—
20	"(I) the actual wage level paid by
21	the employer to other employees with
22	similar experience and qualifications
23	for such position; or
24	"(II) the prevailing wage level for
25	the occupational classification of the

1	position in the metropolitan statistical
2	area of the employment, as deter-
3	mined by the Secretary, based on the
4	best information available as of the
5	time of filing the application.
6	"(v) The working conditions for W
7	nonimmigrants will not adversely affect the
8	working conditions of other workers em-
9	ployed in similar positions.
10	"(vi) The employer has carried out
11	the recruiting activities required by para-
12	graph (2)(B).
13	"(vii) There is no qualified United
14	States worker who has applied for the po-
15	sition and who is ready, willing, and able
16	to fill such position pursuant to the re-
17	quirements in subparagraphs (B) and (C)
18	of paragraph (2).
19	"(viii) There is not a strike, lockout,
20	or work stoppage in the course of a labor
21	dispute in the occupation at the place of
22	employment at which the W nonimmigrant
23	will be employed. If such strike, lockout, or
24	work stoppage occurs following submission
25	of the application, the employer will pro-

1	vide notification in accordance with all ap-
2	plicable regulations.
3	"(ix)(I) The employer has not laid of
4	and will not layoff a United States worker
5	during the period beginning 90 days prior
6	to and ending 90 days after the date the
7	employer files an application for designa-
8	tion of a position for which the W non-
9	immigrant is sought or hires such W non-
10	immigrant, unless the employer has noti-
11	fied such United States worker of the posi-
12	tion and documented the legitimate rea-
13	sons that such United States worker is not
14	qualified or available for the position.
15	"(II) A United States worker is not
16	laid off for purposes of this subparagraph
17	if, at the time such worker's employment is
18	terminated, such worker is not employed in
19	the same occupation and in the same met-
20	ropolitan statistical area where the reg-
21	istered position referred to in subclause (I)
22	is located.
23	"(C) Best information available.—In
24	subparagraph (B)(iv)(II), the term 'best infor-

1	mation available', with respect to determining
2	the prevailing wage for a position, means—
3	"(i) a controlling collective bargaining
4	agreement or Federal contract wage, if ap-
5	plicable;
6	"(ii) if there is no applicable wage
7	under clause (i), the wage level commensu-
8	rate with the experience, training, and su-
9	pervision required for the job based on Bu-
10	reau of Labor Statistics data; or
11	"(iii) if the data referred to in clause
12	(ii) is not available, a legitimate and recent
13	private survey of the wages paid for such
14	positions in the metropolitan statistical
15	area.
16	"(D) Permit.—The Secretary shall pro-
17	vide each registered employer whose application
18	submitted under subparagraph (A) is approved
19	with a permit that includes the number and de-
20	scription of such employer's approved registered
21	positions.
22	"(E) TERM OF REGISTRATION.—The ap-
23	proval of a registered position under subpara-
24	graph (A) is for a term that begins on the date
25	of such approval and ends on the earlier of—

1	"(i) the date the employer's status as
2	a registered employer is terminated;
3	"(ii) 3 years after the date of such ap-
4	proval; or
5	"(iii) upon proper termination of the
6	registered position by the employer.
7	"(F) Registry of registered posi-
8	TIONS.—
9	"(i) Maintenance of registry.—
10	The Secretary shall develop and maintain
11	a registry of approved registered positions
12	for which the Secretary has issued a per-
13	mit under subparagraph (D).
14	"(ii) Availability on website.—
15	The registry required by clause (i) shall be
16	accessible on a website maintained by the
17	Secretary.
18	"(iii) Availability on state work-
19	FORCE AGENCY WEBSITES.—Each State
20	workforce agency shall be linked to such
21	registry and provide access to such registry
22	through the website maintained by such
23	agency.
24	"(iv) Conditions of Availability
25	ON WEBSITE.—

1	"(I) In General.—Each ap-
2	proved registered position for which
3	the Secretary has issued a permit
4	shall be included in the registry of
5	registered positions maintained by the
6	Secretary and shall remain available
7	for viewing on such registry through-
8	out the term of registration referred
9	to in subparagraph (E) or paragraph
10	(5).
11	"(II) Indication of vacancy.—
12	The Secretary shall ensure that such
13	registry indicates whether each ap-
14	proved registered position in the reg-
15	istry is filled or unfilled.
16	"(III) REQUIREMENT FOR 10-DAY
17	POSTING.—If a W nonimmigrant's
18	employment in a registered position
19	ends, either voluntarily or involun-
20	tarily, the Secretary shall ensure that
21	such registry indicates that the reg-
22	istered position is unfilled for a period
23	of 10 calendar days, unless such reg-
24	istered position is filled by a United
25	States worker.

1	"(2) Requirements.—
2	"(A) ELIGIBLE OCCUPATION.—Each reg-
3	istered position shall be for a position in an eli-
4	gible occupation as described in paragraph (3).
5	"(B) Recruitment of united states
6	WORKERS.—
7	"(i) Requirements.—A position may
8	not be a registered position unless the reg-
9	istered employer—
10	"(I) advertises the position for a
11	period of 30 days, including the wage
12	range, location, and proposed start
13	date—
14	"(aa) on the Internet
15	website maintained by the Sec-
16	retary of Labor for the purpose
17	of such advertising; and
18	"(bb) with the workforce
19	agency of the State where the po-
20	sition will be located; and
21	"(II) except as provided for in
22	subsection (g)(4)(B)(i), carries out
23	not less than 3 of the recruiting ac-
24	tivities described in subparagraph (C).

1	"(ii) Duration of Advertising.—
2	The 30 day periods required by item (aa)
3	of (bb) of clause (i)(I) may occur at the
4	same time.
5	"(C) RECRUITING ACTIVITIES.—The re-
6	cruiting activities described in this subpara-
7	graph, with respect to a position for which the
8	employer is seeking a W nonimmigrant, shall
9	consist of any combination of the following as
10	defined by the Secretary of Homeland Security:
11	"(i) Advertising such position at job
12	fairs.
13	"(ii) Advertising such position on the
14	employer's external website.
15	"(iii) Advertising such position on job
16	search Internet websites.
17	"(iv) Advertising such position using
18	presentations or postings at vocational, ca-
19	reer technical schools, community colleges,
20	high schools, or other educational or train-
21	ing sites.
22	"(v) Posting such position with trade
23	associations.
24	"(vi) Utilizing a search firm to seek
25	applicants for such position.

1	"(vii) Advertising such position
2	through recruitment programs with place-
3	ment offices at vocational schools, career
4	technical schools, community colleges, high
5	schools, or other educational or training
6	sites.
7	"(viii) Advertising such position
8	through advertising or postings with local
9	libraries, journals, or newspapers.
10	"(ix) Seeking a candidate for such po-
11	sition through an employee referral pro-
12	gram with incentives.
13	"(x) Advertising such position on
14	radio or television.
15	"(xi) Advertising such position
16	through advertising, postings, or presen-
17	tations with newspapers, Internet websites,
18	job fairs, or community events targeted to
19	constituencies designed to increase em-
20	ployee diversity.
21	"(xii) Advertising such position
22	through career day presentations at local
23	high schools or community organizations.
24	"(xiii) Providing in-house training.
25	"(xiv) Providing third-party training.

1	"(xv) Advertising such position
2	through recruitment, educational, or other
3	cooperative programs offered by the em-
4	ployer and a local economic development
5	authority.
6	"(xvi) Advertising such position twice
7	in the Sunday ads in the primary daily cir-
8	culation newspaper in the area.
9	"(xvii) Any other recruitment activi-
10	ties determined to be appropriate to be
11	added by the Commissioner.
12	"(3) Eligible occupation.—
13	"(A) In general.—An occupation is an
14	eligible occupation if the occupation—
15	"(i) is a zone 1 occupation, a zone 2
16	occupation, or zone 3 occupation; and
17	"(ii) is not an excluded occupation
18	under subparagraph (B).
19	"(B) Excluded occupations.—
20	"(i) Occupations requiring col-
21	LEGE DEGREES.—An occupation that is
22	listed in the Occupational Outlook Hand-
23	book published by the Bureau of Labor
24	Statistics (or similar successor publication)
25	that is classified as requiring an individual

1	with a bachelor's degree or higher level of
2	education may not be an eligible occupa-
3	tion.
4	"(ii) Computer occupations.—An
5	occupation in the field of computer oper-
6	ation, computer programming, or computer
7	repair may not be an eligible occupation.
8	"(C) Publication.—The Secretary of
9	Labor shall publish the eligible occupations,
10	designated as zone 1 occupations, zone 2 occu-
11	pations, or zone 3 occupations, on an on-going
12	basis on a publicly available website.
13	"(4) FILLING OF VACANCIES.—If a W non-
14	immigrant's employment in a registered position
15	ends, such employer may fill that vacancy—
16	"(A) by hiring a United States worker; or
17	"(B) after the 10 calendar day posting pe-
18	riod in subsection (e)(1)(F)(iv)(III) by hiring—
19	"(i) a W nonimmigrant; or
20	"(ii) if available under subsection
21	(g)(4), a certified alien.
22	"(5) Period of Approval.—
23	"(A) IN GENERAL.—Except as provided in
24	subparagraph (B), a registered position shall be

1	approved by the Secretary for a period of 3
2	years.
3	"(B) RETURNING W NONIMMIGRANTS.—
4	"(i) Extension of Period.—A reg-
5	istered position shall continue to be a reg-
6	istered position at the end of the 3-year
7	period referred to in subparagraph (A) if
8	the W nonimmigrant hired for such posi-
9	tion is the beneficiary of a petition for im-
10	migrant status filed by the registered em-
11	ployer pursuant to this Act or is returning
12	to the same registered employer.
13	"(ii) TERMINATION OF PERIOD.—The
14	term of a registration position extended
15	under clause (i) shall terminate on the
16	date that is the earlier of—
17	"(I) the date an application or
18	petition by or for a W nonimmigrant
19	to obtain immigrant status is ap-
20	proved or denied by the Secretary; or
21	"(II) the date of the termination
22	of such W nonimmigrant's employ-
23	ment with the registered employer.
24	"(6) Fees.—
25	"(A) REGISTRATION FEE.—

1	"(i) In general.—At the time a W
2	nonimmigrant commences employment in
3	the registered position for a registered em-
4	ployer, such employer shall pay a registra-
5	tion fee in an amount determined by the
6	Secretary.
7	"(ii) Use of fee.—A fee collected
8	under clause (i) shall be used to fund any
9	aspect of the operation of the W Visa Pro-
10	gram.
11	"(B) Additional fee.—
12	"(i) IN GENERAL.—In addition to the
13	fee required by subparagraph (A), a reg-
14	istered employer, at the time a W non-
15	immigrant commences employment in the
16	registered position for the registered em-
17	ployer, shall pay an additional fee for each
18	such approved registered position as fol-
19	lows:
20	"(I) A fee of $$1,750$ for the reg-
21	istered position if the registered em-
22	ployer, at the time of filing the appli-
23	cation for the registered position, is a
24	small business and more than 50 per-
25	cent and less than 75 percent of the

1	employees of the registered employer
2	are not United States workers.
3	"(II) A fee of $\$3,500$ for the reg-
4	istered position if the registered em-
5	ployer, at the time of filing the appli-
6	cation for the registered position, is a
7	small business and more than 75 per-
8	cent of the employees of the registered
9	employer are not United States work-
10	ers.
11	"(III) A fee of \$3,500 for the
12	registered position if the registered
13	employer, at the time of filing the ap-
14	plication for the registered position, is
15	not a small business and more than
16	15 percent and less than 30 percent
17	of the employees of the registered em-
18	ployer are not United States workers.
19	"(ii) Use of fee.—A fee collected
20	under clause (i) shall be used to fund the
21	operations of the Bureau.
22	"(C) Prohibition on other fees.—A
23	registered employer may not be required to pay
24	an additional fee other than any fees specified

1	in this Act if the registered employer is a small
2	business.
3	"(7) Prohibition on registered positions
4	FOR CERTAIN EMPLOYERS.—The Secretary may not
5	approve an application for a registered position for
6	an employer if the employer is not a small business
7	and 30 percent or more of the employees of the em-
8	ployer are not United States workers.
9	"(f) Excluded Geographic Location.—No appli-
10	cation for a registered position filed by a registered em-
11	ployer for an eligible occupation may be approved if the
12	registered position is located in a metropolitan statistical
13	area that has an unemployment rate that is more than
14	$8\frac{1}{2}$ percent as reported in the most recent month pre-
15	ceding the date that the application is submitted to the
16	Secretary unless—
17	"(1) the Commissioner has identified the eligi-
18	ble occupation as a shortage occupation; or
19	"(2) the Secretary approves the registered posi-
20	tion under subsection $(g)(4)$.
21	"(g) Numerical Limitation.—
22	"(1) Registered positions.—
23	"(A) In General.—Subject to paragraphs
24	(3) and (4), the maximum number of registered

1	positions that may be approved by the Sec-
2	retary for a year is as follows:
3	"(i) For the first year aliens are ad-
4	mitted as W nonimmigrants, 20,000.
5	"(ii) For the second such year,
6	35,000.
7	"(iii) For the third such year, 55,000.
8	"(iv) For the fourth such year,
9	75,000.
10	"(v) For each year after the fourth
11	such year, the level calculated for that year
12	under paragraph (2).
13	"(B) Dates.—The first year referred to in
14	subparagraph (A)(i) shall begin on April 1,
15	2015, and end on March 31, 2016, unless the
16	Secretary determines that such first year shall
17	begin on October 1, 2015, and end on Sep-
18	tember 30, 2016.
19	"(2) Years after year 4.—
20	"(A) CURRENT YEAR AND PRECEDING
21	YEAR.—In this paragraph—
22	"(i) the term 'current year' shall refer
23	to the 12-month period for which the cal-
24	culation of the numerical limits under this
25	paragraph is being performed; and

1	"(ii) the term 'preceding year' shall
2	refer to the 12-month period immediately
3	preceding the current year.
4	"(B) Numerical limitation.—Subject to
5	subparagraph (D), the number of registered po-
6	sitions that may be approved by the Secretary
7	for a year after the fourth year referred to in
8	paragraph (1)(A)(iv) shall be equal to the sum
9	of—
10	"(i) the number of such registered po-
11	sitions available under this paragraph for
12	the preceding year; and
13	"(ii) the product of—
14	"(I) the number of such reg-
15	istered positions available under this
16	paragraph for the preceding year;
17	multiplied by
18	"(II) the index for the current
19	year calculated under subparagraph
20	(C).
21	"(C) Index.—The index calculated under
22	this subparagraph for a current year equals the
23	sum of—
24	"(i) one-fifth of a fraction—

1	"(I) the numerator of which is
2	the number of registered positions
3	that registered employers applied to
4	have approved under subsection (e)(1)
5	for the preceding year minus the
6	number of registered positions ap-
7	proved under subsection (e) for the
8	preceding year; and
9	"(II) the denominator of which is
10	the number of registered positions ap-
11	proved under subsection (e) for the
12	preceding year;
13	"(ii) one-fifth of a fraction—
14	"(I) the numerator of which is
15	the number of registered positions the
16	Commissioner recommends be avail-
17	able under this subparagraph for the
18	current year minus the number of
19	registered positions available under
20	this subsection for the preceding year;
21	and
22	"(II) the denominator of which is
23	the number of registered positions
24	available under this subsection for the
25	preceding year;

1	"(iii) three-tenths of a fraction—
2	"(I) the numerator of which is
3	the number of unemployed United
4	States workers for the preceding year
5	minus the number of unemployed
6	United States workers for the current
7	year; and
8	"(II) the denominator of which is
9	the number of unemployed United
10	States workers for the preceding year;
11	and
12	"(iv) three-tenths of a fraction—
13	"(I) the numerator of which is
14	the number of job openings as set out
15	in the Job Openings and Labor Turn-
16	over Survey of the Bureau of Labor
17	Statistics for the current year minus
18	such number of job openings for the
19	preceding year; and
20	"(II) the denominator of which is
21	the number of such job openings for
22	the preceding year;
23	"(D) Minimum and maximum levels.—
24	The number of registered positions calculated
25	under subparagraph (B) for a 12-month period

1	may not be less than 20,000 nor more than
2	200,000.
3	"(3) Additional registered positions for
4	SHORTAGE OCCUPATIONS.—In addition to the num-
5	ber of registered positions made available for a year
6	under paragraph (1), the Secretary shall make avail-
7	able for a year an additional number of registered
8	positions for shortage occupations in a particular
9	metropolitan statistical area.
10	"(4) Special allocations of registered
11	POSITIONS.—
12	"(A) AUTHORITY TO MAKE AVAILABLE.—
13	In addition to the number of registered posi-
14	tions made available for a year under para-
15	graph (1) or (3), the Secretary shall make addi-
16	tional registered positions available for the year
17	for a specific registered employer as described
18	in this paragraph, if—
19	"(i) the maximum number of reg-
20	istered positions available under paragraph
21	(1) have been approved for the year and
22	none remain available for allocation; or
23	"(ii) such registered employer is lo-
24	cated in a metropolitan statistical area
25	that has an unemployment rate that is

1	more than $8\frac{1}{2}$ percent as reported in the
2	most recent month preceding the date that
3	the application is submitted to the Sec-
4	retary.
5	"(B) Recruitment.—
6	"(i) In general.—Except as pro-
7	vided in clause (ii), an initial W non-
8	immigrant may only enter the United
9	States for initial employment pursuant to
10	a special allocation under this paragraph if
11	the registered employer has carried out at
12	least 7 of the recruiting activities described
13	in subsection $(e)(2)(C)$.
14	"(ii) Requirement to recruit w
15	NONIMMIGRANTS IN THE UNITED
16	STATES.—A registered employer may reg-
17	ister a position pursuant to a special allo-
18	cation under this paragraph by conducting
19	at least 3 of the recruiting activities de-
20	scribed in subsection (e)(2)(C), however a
21	position registered pursuant to this clause
22	may not be filled by an initial W non-
23	immigrant entering the United States for
24	initial employment.
25	"(iii) 30 day posting.—

1	"(I) REQUIREMENT.—Any reg-
2	istered employer registering any posi-
3	tion under the special allocation au-
4	thority shall post the position, includ-
5	ing the wage range, location, and ini-
6	tial date of employment, for not less
7	than 30 days—
8	"(aa) on the Internet
9	website maintained by the Sec-
10	retary of Labor for the purpose
11	of such advertising; and
12	"(bb) with the workforce
13	agency of the State where the po-
14	sition will be located.
15	"(II) Contemporaneous post-
16	ING.—The 30 day periods required by
17	items (aa) and (bb) of subclause (I)
18	may occur at the same time.
19	"(C) Wages.—
20	"(i) Initial w nonimmigrants.—An
21	initial W nonimmigrant entering the
22	United States for initial employment pur-
23	suant to a registered position made avail-
24	able under this paragraph may not be paid
25	less than the greater of—

1	"(I) the level 4 wage set out in
2	the Foreign Labor Certification Data
3	Center Online Wage Library (or simi-
4	lar successor website) maintained by
5	the Secretary of Labor for such occu-
6	pation in that metropolitan statistical
7	area; or
8	"(II) the mean of the highest
9	two-thirds of wages surveyed for such
10	occupation in that metropolitan statis-
11	tical area.
12	"(ii) Other w nonimmigrants.—A
13	W nonimmigrant employed in a registered
14	position referred to in subsection
15	(g)(4)(B)(ii) may not be paid less than the
16	wages required under subsection
17	(e)(1)(B)(iv).
18	"(D) Reduction of future registered
19	Positions.—Each registered position made
20	available for a year subject to the wage condi-
21	tions of subparagraph (C)(i) shall reduce by 1
22	the number of registered positions made avail-
23	able under paragraph (g)(1) for the following
24	year or the earliest possible year for which a
25	registered position is available. The limitation

1	contained in subsection (h)(4) shall not be re-
2	duced by any registered position made available
3	under this paragraph.
4	"(h) Allocation of Registered Positions.—
5	"(1) In general.—
6	"(A) First 6-month period.—The num-
7	ber of registered positions available for the 6-
8	month period beginning on the first day of a
9	year is 50 percent of the maximum number of
10	registered positions available for such year
11	under paragraph (1) or (2) of subsection (g).
12	Such registered positions shall be allocated as
13	described in this subsection.
14	"(B) SECOND 6-MONTH PERIOD.—The
15	number of registered positions available for the
16	6-month period ending on the last day of a year
17	is the maximum number of registered positions
18	available for such year under paragraph (1) or
19	(2) of subsection (g) minus the number of reg-
20	istered positions approved during the 6-month
21	period referred to in subsection (A). Such reg-
22	istered positions shall be allocated as described
23	in this subsection.
24	"(2) Shortage occupations.—

1	"(A) IN GENERAL.—For the first month of
2	each 6-month period referred to in subpara-
3	graph (A) or (B) of paragraph (1) a registered
4	position may not be created in an occupation
5	that is not a shortage occupation.
6	"(B) Initial designations.—Subpara-
7	graph (A) shall not apply in any period for

- "(B) INITIAL DESIGNATIONS.—Subparagraph (A) shall not apply in any period for which the Commissioner has not designated any shortage occupations.
- "(3) SMALL BUSINESSES.—During the second, third, and fourth months of each 6-month period referred to in subparagraph (A) or (B) of paragraph (1), one-third of the number of registered positions allocated for such period shall be approved only for a registered employer that is a small business. Any such registered positions not approved for such small businesses during such months shall be available for any registered employer during the last 2 months of each such 6-month period.
- "(4) Animal production subsectors.—In addition to the number of registered positions made available for a year under paragraph (1) or (3) of such section (g), the Secretary shall make additional registered positions available for the year for occupations designated by the Secretary of Labor as Ani-

1	mal Production Subsectors. The numerical limitation
2	for such additional registered positions shall be no
3	more than 10 percent of the annual numerical limi-
4	tation provided for in such paragraph (1).
5	"(5) Limitation for construction occupa-
6	TIONS.—
7	"(A) In General.—Subject to subpara-
8	graph (B), not more than 33 percent of the reg-
9	istered positions made available under para-
10	graph (1) or (2) of subsection (g) for a year
11	may be granted to perform work in a construc-
12	tion occupation.
13	"(B) Maximum Level.—Notwithstanding
14	subparagraph (A), the number of registered po-
15	sitions granted to perform work in a construc-
16	tion occupation under subsection $(g)(1)$ may
17	not exceed 15,000 for a year and 7,500 for any
18	6-month period.
19	"(C) Prohibition for occupations
20	WITH HIGH UNEMPLOYMENT.—
21	"(i) In general.—A registered em-
22	ployer may not hire a certified alien for a
23	registered position to perform work in a
24	construction occupation if the unemploy-
25	ment rate for construction occupations in

1	the corresponding occupational job zone in
2	that metropolitan statistical area was more
3	than $8\frac{1}{2}$ percent.
4	"(ii) Determination of unemploy-
5	MENT RATE.—The unemployment rate
6	used in clause (i) shall be determined—
7	"(I) using the most recent survey
8	taken by the Bureau; or
9	"(II) if a survey referred to in
10	subclause (I) is not available, using a
11	recent and legitimate private survey.
12	"(i) Portability.—A W nonimmigrant who is ad-
13	mitted to the United States for employment by a reg-
14	istered employer may—
15	"(1) terminate such employment for any rea-
16	son; and
17	"(2) seek and accept employment with another
18	registered employer in any other registered position
19	within the terms and conditions of the W non-
20	immigrant's visa.
21	"(j) Promotion.—A registered employer may pro-
22	mote a W nonimmigrant if the W nonimmigrant has been
23	employed with that employer for a period of not less than
24	12 months. Such a promotion shall not increase the total
25	number of registered positions available to that employer.

1	"(k) Prohibition on Outplacement.—A reg-
2	istered employer may not place, outsource, lease, or other-
3	wise contract for the services or placement of a W non-
4	immigrant employee with another employer if more than
5	15 percent of the employees of the registered employer are
6	W nonimmigrants.
7	"(l) W Nonimmigrant Protections.—
8	"(1) Applicability of Laws.—A W non-
9	immigrant shall not be denied any right or any rem-
10	edy under Federal, State, or local labor or employ-
11	ment law that would be applicable to a United
12	States worker employed in a similar position with
13	the employer because of the alien's status as a non-
14	immigrant worker.
15	"(2) Waiver of rights prohibited.—
16	"(A) In General.—A W nonimmigrant
17	may not be required to waive any substantive
18	rights or protections under this Act.
19	"(B) Construction.—Nothing under this
20	paragraph may be construed to affect the inter-
21	pretation of any other law.
22	"(3) Prohibition on treatment as inde-
23	PENDENT CONTRACTORS.—
24	"(A) In General.—Notwithstanding any
25	other provision of law—

1	"(i) a W nonimmigrant is prohibited
2	from being treated as an independent con-
3	tractor under any Federal or State law;
4	and
5	"(ii) no person, including an employer
6	or labor contractor and any persons who
7	are affiliated with or contract with an em-
8	ployer or labor contractor, may treat a W
9	nonimmigrant as an independent con-
10	tractor.
11	"(B) Construction.—Subparagraph (A)
12	may not be construed to prevent registered em-
13	ployers who operate as independent contractors
14	from employing W nonimmigrants.
15	"(4) Payment of fees.—
16	"(A) IN GENERAL.—A fee related to the
17	hiring of a W nonimmigrant required to be paid
18	by an employer under this Act shall be paid by
19	the employer and may not be deducted from the
20	wages or other compensation paid to a W non-
21	immigrant.
22	"(B) Excluded costs.—The cost of
23	round trip transportation from a certified
24	alien's home to the location of a registered posi-
25	tion and the cost of obtaining a foreign pass-

1	port are not fees required to be paid by the em-
2	ployer.
3	"(5) TAX RESPONSIBILITIES.—An employer
4	shall comply with all applicable Federal, State, and
5	local tax laws with respect to each W nonimmigrant
6	employed by the employer.
7	"(6) Prohibited activities.—It shall be un-
8	lawful for an employer of a W nonimmigrant to in-
9	timidate, threaten, restrain, coerce, retaliate, dis-
10	charge, or in any other manner, discriminate against
11	an employee or former employee because the em-
12	ployee or former employee—
13	"(A) discloses information to the employer
14	or any other person that the employee or
15	former employee reasonably believes dem-
16	onstrates a violation of this section; or
17	"(B) cooperates or seeks to cooperate in an
18	investigation or other proceeding concerning
19	compliance with the requirements of this sec-
20	tion.
21	"(m) COMPLAINT PROCESS.—The Secretary shall es-
22	tablish a process for the receipt, investigation, and disposi-
23	tion of complaints by an aggrieved applicant, employee,
24	or nonimmigrant (or a person acting on behalf of such
25	applicant, employee, or nonimmigrant) with respect to—

1	"(1) the failure of a registered employer to
2	meet a condition of this section; or
3	"(2) the lay off or nonhiring of a United States
4	worker as prohibited under this section.
5	"(n) Enforcement.—
6	"(1) In General.—The Secretary shall pro-
7	mulgate regulations for the receipt, investigation
8	and disposition of complaints by an aggrieved W
9	nonimmigrant respecting a violation of this section
10	"(2) FILING DEADLINE.—No investigation or
11	hearing shall be conducted on a complaint con-
12	cerning a violation under this section unless the
13	complaint was filed not later than 6 months after
14	the date of such violation.
15	"(3) Reasonable basis.—The Secretary shall
16	conduct an investigation under this subsection if
17	there is reasonable basis to believe that a violation
18	of this section has occurred. The process established
19	under this subsection shall provide that, not later
20	than 30 days after a complaint is filed, the Sec-
21	retary shall determine if there is reasonable cause to
22	find such a violation.
23	"(4) Notice and Hearing.—
24	"(A) IN GENERAL.—Not later than 60
25	days after the Secretary makes a determination

1	of reasonable basis under paragraph (3), the
2	Secretary shall issue a notice to the interested
3	parties and offer an opportunity for a hearing
4	on the complaint, in accordance with section
5	556 of title 5, United States Code.
6	"(B) HEARING DEADLINE.—Not later than
7	60 days after the date of a hearing under this
8	paragraph, the Secretary shall make a finding
9	on the matter.
10	"(5) Attorney's fees.—
11	"(A) AWARD.—A complainant who prevails
12	in an action under this subsection with respect
13	to a claim related to wages or compensation for
14	employment, or a claim for a violation of sub-
15	section (l) or (m), shall be entitled to an award
16	of reasonable attorney's fees and costs.
17	"(B) Frivolous complaints.—A com-
18	plainant who files a frivolous complaint for an
19	improper purpose under this subsection shall be
20	liable for the reasonable attorney's fees and
21	costs of the person named in the complaint.
22	"(6) Power of the Secretary.—The Sec-
23	retary may bring an action in any court of com-

petent jurisdiction—

1	"(A) to seek remedial action, including in-
2	junctive relief;
3	"(B) to recover the damages described in
4	this subsection and subsection (o); or
5	"(C) to ensure compliance with terms and
6	conditions described in subsection (l)(6).
7	"(7) OTHER RIGHTS OF EMPLOYEES.—The
8	rights and remedies provided to W nonimmigrants
9	under this section are in addition to any other con-
10	tractual or statutory rights and remedies of the
11	workers, and are not intended to alter or affect such
12	rights and remedies.
13	"(o) Penalties.—
14	"(1) IN GENERAL.—If, after notice and an op-
15	portunity for a hearing, the Secretary finds a viola-
16	tion of this section, the Secretary may impose ad-
17	ministrative remedies and penalties, including—
18	"(A) back wages;
19	"(B) benefits; and
20	"(C) civil monetary penalties.
21	"(2) CIVIL PENALTIES.—The Secretary may
22	impose, as a civil penalty—
23	"(A) for a violation of this subsection—
24	"(i) a fine in an amount not more
25	than \$2,000 per violation per affected

1	worker and \$4,000 per violation per af-
2	fected worker for each subsequent viola-
3	tion;
4	"(ii) if the violation was willful, a fine
5	in an amount not more than \$5,000 per
6	violation per affected worker; and
7	"(iii) if the violation was willful and if
8	in the course of such violation a United
9	States worker was harmed, a fine in an
10	amount not more than \$25,000 per viola-
11	tion per affected worker; or
12	"(B) for knowingly failing to materially
13	comply with the terms of representations made
14	in petitions, applications, certifications, or at-
15	testations under this section—
16	"(i) a fine in an amount not more
17	than \$4,000 per aggrieved worker; and
18	"(ii) upon the occasion of a third of-
19	fense of failure to comply with representa-
20	tions, a fine in an amount not to exceed
21	\$5,000 per affected worker and designa-
22	tion as an ineligible employer, recruiter, or
23	broker for purposes of any immigrant or
24	nonimmigrant program.

1	"(3) CRIMINAL PENALTY.—Any person who
2	knowingly misrepresents the number of full-time
3	equivalent employees of an employer or the number
4	of employees of a person who are United States
5	workers for the purpose of reducing a fee under sub-
6	section (e)(6) or avoiding the limitation in sub-
7	section (e)(7), shall be fined in accordance with title
8	18, United States Code, in an amount up to
9	\$25,000 or imprisoned not more than 1 year, or
10	both.
11	"(p) Monitoring.—
12	"(1) REQUIREMENT TO MONITOR.—The Sec-
13	retary shall monitor the movement of W non-
14	immigrants in registered positions through—
15	"(A) the Employment Verification System
16	described in section 274A(d); and
17	"(B) the electronic monitoring system de-
18	scribed in paragraph (2).
19	"(2) Electronic monitoring system.—
20	"(A) REQUIREMENT FOR SYSTEM.—The
21	Secretary, through U.S. Citizenship and Immi-
22	gration Services, shall implement an electronic
23	monitoring system to monitor presence and em-
24	ployment of W nonimmigrants, including a re-
25	quirement that registered employers update the

1	system	when	W	nonimmigrants	start	and	end
2	employ	ment i	n re	gistered position	ıs.		

3 "(B) System description.—Such system
4 shall be modeled on the Student and Exchange
5 Visitor Information System (SEVIS) and
6 SEVIS II tracking system of U.S. Immigration
7 and Customs Enforcement.

8 "(C) Interaction with Registry.—
9 Such system shall interact with the registry re10 ferred to in subsection (e)(1)(F) to ensure that
11 the Secretary designates and updates approved
12 registered positions as being filled or unfilled.".

13 (b) Table of Contents Amendment.—The table 14 of contents in the first section (8 U.S.C. 1101 et seq.) 15 is amended by adding after the item relating to section

16 219 the following:

"Sec. 220. Admission of W nonimmigrant workers.".

17 Subtitle H—Investing in New Ven-

ture, Entrepreneurial Startups,

and Technologies

- 20 SEC. 4801. NONIMMIGRANT INVEST VISAS.
- 21 (a) INVEST NONIMMIGRANT CATEGORY.—Section
- 22 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sec-
- 23 tions 2231, 2308, 2309, 3201, 4402, 4504, 4601, and
- 24 4702, is further amended by inserting after subparagraph
- 25 (W) the following:

1	"(X) in accordance with the definitions in
2	section 203(b)(6)(A), a qualified entrepreneur
3	who has demonstrated that, during the 3-year
4	period ending on the date on which the alien
5	filed an initial petition for nonimmigrant status
6	described in this clause—
7	"(i) a qualified venture capitalist, a
8	qualified super angel investor, a qualified
9	government entity, a qualified community
10	development financial institution, qualified
11	startup accelerator, or such other type of
12	entity or investors, as determined by the
13	Secretary, or any combination of such enti-
14	ties or investors, has made a qualified in-
15	vestment or combination of qualified in-
16	vestments of not less than \$100,000 in
17	total in the alien's United States business
18	entity; or
19	"(ii) the alien's United States busi-
20	ness entity has created no fewer than 3
21	qualified jobs and during the 2-year period
22	ending on such date has generated not less
23	than \$250,000 in annual revenue arising
24	from business conducted in the United

States; or".

1	(b) Admission of INVEST Nonimmigrants.—Sec-
2	tion 214 (8 U.S.C. 1184), as amended by sections 3608,
3	4232, 4405, 4503, 4504, 4602, 4605, and 4606, is further
4	amended by adding at the end the following:
5	"(aa) INVEST Nonimmigrant Visas.—
6	"(1) Definitions.—The definitions in section
7	203(b)(6)(A) apply to this subsection.
8	"(2) Initial period of authorized admis-
9	SION.—The initial period of authorized status as a
10	nonimmigrant described in section $101(a)(15)(X)$
11	shall be for an initial 3-year period.
12	"(3) Renewal of Admission.—Subject to
13	paragraph (4), the initial period of authorized non-
14	immigrant status described in paragraph (2) may be
15	renewed for additional 3-year periods if during the
16	most recent 3-year period that the alien was granted
17	such status—
18	"(A) the alien's United States business en-
19	tity has created no fewer than 3 qualified jobs
20	and a qualified venture capitalist, a qualified
21	super angel investor, a qualified government en-
22	tity, a qualified community development finan-
23	cial institution, qualified startup accelerator, or
24	such other type of entity or investors, as deter-
25	mined by the Secretary, or any combination of

1	such entities or investors, has made a qualified
2	investment or combination of qualified invest-
3	ments of not less than \$250,000 in total to the
4	alien's United States business entity; or
5	"(B) the alien's United States business en-
6	tity has created no fewer than 3 qualified jobs
7	and, during the 2-year period ending on the
8	date that the alien petitioned for an extension,
9	has generated not less than \$250,000 in annual
10	revenue arising from business conducted within
11	the United States.
12	"(4) Waiver of Renewal requirements.—
13	The Secretary may renew an alien's status as a non-
14	immigrant described in section $101(a)(15)(X)$ for
15	not more than 1 year at a time, up to an aggregate
16	of 2 years if the alien—
17	"(A) does not meet the criteria under
18	paragraph (3); and
19	"(B) meets the criteria established by the
20	Secretary, in consultation with the Secretary of
21	Commerce, for approving renewals under this
22	subsection, which shall include a finding that—
23	"(i) the alien has made substantial
24	progress in meeting such criteria; and

1	"(ii) such renewal is economically ben-
2	eficial to the United States.
3	"(5) Attestation.—The Secretary may re-
4	quire an alien seeking status as a nonimmigrant de-
5	scribed in section 101(a)(15)(X) to attest, under
6	penalty of perjury, that the alien meets the applica-
7	tion criteria.
8	"(6) X-1 VISA FEE.—In addition to processing
9	fees, the Secretary shall collect a \$1,000 fee from
10	each nonimmigrant admitted under section
11	101(a)(15)(X). Fees collected under this paragraph
12	shall be deposited into the Comprehensive Immigra-
13	tion Reform Trust Fund established under section
14	6(a)(1) of the Illegal Immigration Reform and Im-
15	migrant Responsibility Act of 1996.".
16	SEC. 4802. INVEST IMMIGRANT VISA.
17	Section 203(b) (8 U.S.C. 1153(b)) is amended—
18	(1) by redesignating paragraph (6) as para-
19	graph (7); and
20	(2) by inserting after paragraph (5) the fol-
21	lowing:
22	"(6) INVEST immigrants.—
23	"(A) Definitions.—In this paragraph,
24	section $101(a)(15)(X)$, and section $214(s)$:

1	"(i) Qualified community devel-
2	OPMENT FINANCIAL INSTITUTION.—The
3	term 'qualified community development fi-
4	nancial institution' is defined as provided
5	under section 1805.201 45D(c) of title 12,
6	Code of Federal Regulations, or any simi-
7	lar successor regulations.
8	"(ii) Qualified entrepreneur.—
9	The term 'qualified entrepreneur' means
10	an individual who—
11	"(I) has a significant ownership
12	interest, which need not constitute a
13	majority interest, in a United States
14	business entity;
15	"(II) is employed in a senior ex-
16	ecutive position of such United States
17	business entity;
18	"(III) submits a business plan to
19	U.S. Citizenship and Immigration
20	Services; and
21	"(IV) had a substantial role in
22	the founding or early-stage growth
23	and development of such United
24	States business entity.

1	"(iii) Qualified government enti-
2	TY.—The term 'qualified government enti-
3	ty' means an agency or instrumentality of
4	the United States or of a State, local, or
5	tribal government.
6	"(iv) Qualified investment.—The
7	term 'qualified investment'—
8	"(I) means an investment in a
9	qualified entrepreneur's United States
10	business entity that is—
11	"(aa) a purchase from the
12	United States business entity or
13	equity or convertible debt issued
14	by such entity;
15	"(bb) a secured loan;
16	"(cc) a convertible debt
17	note;
18	"(dd) a public securities of-
19	fering;
20	"(ee) a research and devel-
21	opment award from a qualified
22	government entity to the United
23	States entity;

1	"(ff) other investment deter-
2	mined appropriate by the Sec-
3	retary; or
4	"(gg) a combination of the
5	investments described in items
6	(aa) through (ff); and
7	"(II) may not include an invest-
8	ment from such qualified entre-
9	preneur, the parents, spouse, son, or
10	daughter of such qualified entre-
11	preneur, or from any corporation,
12	company, association, firm, partner-
13	ship, society, or joint stock company
14	over which such qualified entre-
15	preneur has a substantial ownership
16	interest.
17	"(v) QUALIFIED JOB.—The term
18	'qualified job' means a full-time position of
19	a United States business entity owned by
20	a qualified entrepreneur that—
21	"(I) is located in the United
22	States;
23	"(II) has been filled for at least
24	2 years by an individual who is not
25	the qualified entrepreneur or the

1	spouse, son, or daughter of the quali-
2	fied entrepreneur; and
3	"(III) pays a wage that is not
4	less than 250 percent of the Federal
5	minimum wage.
6	"(vi) Qualified startup accel-
7	ERATOR.—The term 'qualified startup ac-
8	celerator' means a corporation, company,
9	association, firm, partnership, society, or
10	joint stock company that—
11	"(I) is organized under the laws
12	of the United States or any State and
13	conducts business in the United
14	States;
15	"(II) in the ordinary course of
16	business, provides a program of train-
17	ing, mentorship, and logistical support
18	to assist entrepreneurs in growing
19	their businesses;
20	"(III) is managed by individuals,
21	the majority of whom are citizens of
22	the United States or aliens lawfully
23	admitted for permanent residence;
24	"(IV)(aa) regularly acquires an
25	equity interest in companies that par-

1	ticipate in its programs, where the
2	majority of the capital so invested is
3	committed from individuals who are
4	United States citizens or aliens law-
5	fully admitted for permanent resi-
6	dence, or from entities organized
7	under the laws of the United States
8	or any State; or
9	"(bb) is an entity that has re-
10	ceived not less than \$250,000 in fund-
11	ing from a qualified government entity
12	or entities during the previous 5 years
13	and regularly makes grants to compa-
14	nies that participate in its programs
15	(in which case, such grant shall be
16	treated as a qualified investment for
17	purposes of clause (iv));
18	"(V) during the previous 5 years,
19	has acquired an equity interest in, or,
20	in the case of an entity described in
21	subclause (IV)(bb), regularly made
22	grants to, not fewer than 10 United
23	States business entities that have par-
24	ticipated in its programs and that
25	have—

1	"(aa) each secured at least
2	\$100,000 in initial investments;
3	or
4	"(bb) during any 2-year pe-
5	riod following the date of such
6	acquisition, generated not less
7	than \$500,000 in aggregate an-
8	nual revenue within the United
9	States;
10	"(VI) has its primary location in
11	the United States; and
12	"(VII) satisfies such other cri-
13	teria as may be established by the
14	Secretary.
15	"(vii) Qualified super angel in-
16	VESTOR.—The term 'qualified super angel
17	investor' means an individual or organized
18	group of individuals investing directly or
19	through a legal entity—
20	"(I) each of whom is an accred-
21	ited investor, as defined in section
22	230.501(a) of title 17, Code of Fed-
23	eral Regulations, or any similar suc-
24	cessor regulation, investing the funds
25	owned by such individual or organized

1	group in a qualified entrepreneur's
2	United States business entity;
3	"(II)(aa) if an individual, is a cit-
4	izen of the United States or an alien
5	lawfully admitted for permanent resi-
6	dence; or
7	"(bb) if an organized group or
8	legal entity, a majority of the individ-
9	uals investing through such group or
10	entity are citizens of the United
11	States or aliens lawfully admitted for
12	permanent residence; and
13	"(III) each of whom in the pre-
14	vious 3 years has made qualified in-
15	vestments in a total amount deter-
16	mined to be appropriate by the Sec-
17	retary, that is not less than \$50,000,
18	in United States business entities
19	which are less than 5 years old.
20	"(viii) Qualified venture capi-
21	TALIST.—The term 'qualified venture capi-
22	talist' means an entity—
23	"(I) that—
24	"(aa) is a venture capital
25	operating company (as defined in

1	section $2510.3-101(d)$ of title 29 ,
2	Code of Federal Regulations (or
3	any successor to such regula-
4	tion)); or
5	"(bb) has management
6	rights, as defined in, and to the
7	extent required by, such section
8	2510.3–101(d) (or successor reg-
9	ulation), in its portfolio compa-
10	nies;
11	"(II) that has capital commit-
12	ments of not less than \$10,000,000;
13	and
14	"(III) the investment adviser,
15	that is registered under the Invest-
16	ment Advisers Act of 1940 (15 U.S.C.
17	80b-2), for which—
18	"(aa) has its primary office
19	location in the United States;
20	"(bb) is owned, directly or
21	indirectly, by individuals, the ma-
22	jority of whom are citizens of the
23	United States or aliens lawfully
24	admitted for permanent residence
25	in the United States;

1	"(cc) has been advising such
2	entity or other similar funds or
3	entities for at least 2 years; and
4	"(dd) has advised such enti-
5	ty or a similar fund or entity
6	with respect to at least 2 invest-
7	ments of not less than \$500,000
8	made by such entity or similar
9	fund or entity during each of the
10	most recent 2 years.
11	"(ix) Secretary.—Except as other-
12	wise specifically provided, the term 'Sec-
13	retary' means the Secretary of Homeland
14	Security.
15	"(x) Senior executive position.—
16	The term 'senior executive position' in-
17	cludes the position of chief executive offi-
18	cer, chief technology officer, and chief op-
19	erating officer.
20	"(xi) United states business en-
21	TITY.—The term 'United States business
22	entity' means any corporation, company,
23	association, firm, partnership, society, or
24	joint stock company that is organized
25	under the laws of the United States or any

1	State and that conducts business in the
2	United States that is not—
3	"(I) a private fund, as defined in
4	202(a) of the Investment Advisers Act
5	of 1940 (15 U.S.C. 80b-2);
6	"(II) a commodity pool, as de-
7	fined in section 1a of the Commodity
8	Exchange Act (7 U.S.C. 1a);
9	"(III) an investment company, as
10	defined in section 3 of the Investment
11	Company Act of 1940 (15 U.S.C.
12	80a–3); or
13	"(IV) an issuer that would be an
14	investment company but for an ex-
15	emption provided in—
16	"(aa) section 3(c) of the In-
17	vestment Company Act of 1940
18	(15 U.S.C. 80a–3(c); or
19	"(bb) section 270.3a-7 of
20	title 17 of the Code of Federal
21	Regulations or any similar suc-
22	cessor regulation.
23	"(B) In general.—Visas shall be avail-
24	able, in a number not to exceed 10,000 for each
25	fiscal year, to qualified immigrants seeking to

1	enter the United States for the purpose of cre-
2	ating new businesses, as described in this para-
3	graph.
4	"(C) ELIGIBILITY.—An alien is eligible for
5	a visa under this paragraph if—
6	"(i)(I) the alien is a qualified entre-
7	preneur;
8	"(II) the alien maintained valid non-
9	immigrant status in the United States for
10	at least 2 years;
11	"(III) during the 3-year period ending
12	on the date the alien files an initial peti-
13	tion for such status under this section—
14	"(aa)(AA) the alien has a signifi-
15	cant ownership in a United States
16	business entity that has created no
17	fewer than 5 qualified jobs; and
18	"(BB) a qualified venture capi-
19	talist, a qualified super angel investor,
20	a qualified government entity, a quali-
21	fied community development financial
22	institution, qualified startup accel-
23	erator, or such other entity or type of
24	investors, as determined by the Sec-
25	retary, or any combination of such en-

1	tities or investors, has devoted a
2	qualified investment or combination of
3	qualified investments of not less than
4	\$500,000 in total to the alien's
5	United States business entity; or
6	"(bb)(AA) the alien has a signifi-
7	cant ownership interest in a United
8	States business entity that has cre-
9	ated no fewer than 5 qualified jobs;
10	and
11	"(BB) during the 2-year period
12	ending on such date has generated not
13	less than \$750,000 in annual revenue
14	within the United States; and
15	"(IV) no more than 2 other aliens
16	have received nonimmigrant status under
17	this section on the basis of an alien's own-
18	ership of such United States business enti-
19	ty;
20	"(ii)(I) the alien is a qualified entre-
21	preneur;
22	"(II) the alien maintained valid non-
23	immigrant status in the United States for
24	at least 3 years prior to the date of filing
25	an application for such status;

1	"(III) the alien holds an advanced de-
2	gree in a field of science, technology, engi-
3	neering, or mathematics, approved by the
4	Secretary; and
5	"(IV) during the 3-year period ending
6	on the date the alien files an initial peti-
7	tion for such status under this section—
8	"(aa)(AA) the alien has a signifi-
9	cant ownership interest in a United
10	States business entity that has cre-
11	ated no fewer than 4 qualified jobs;
12	and
13	"(BB) a qualified venture capi-
14	talist, a qualified super angel investor,
15	a qualified government entity, a quali-
16	fied community development financial
17	institution, qualified startup accel-
18	erator, or such other entity or type of
19	investors, as determined by the Sec-
20	retary, or any combination of such en-
21	tities or investors, has devoted a
22	qualified investment or combination of
23	qualified investments of not less than
24	\$500,000 in total to the alien's
25	United States business entity; or

1	"(bb)(AA) the alien has a signifi-
2	cant ownership interest in a United
3	States business entity that has cre-
4	ated no fewer than 3 qualified jobs;
5	and
6	"(BB) during the 2-year period
7	ending on such date has generated not
8	less than \$500,000 in annual revenue
9	within the United States; and
10	"(V) no more than 3 other aliens have
11	received nonimmigrant status under this
12	section on the basis of an alien's ownership
13	of such United States business entity.
14	"(D) Attestation.—The Secretary may
15	require an alien seeking a visa under this para-
16	graph to attest, under penalties of perjury, to
17	the alien's qualifications.".
18	SEC. 4803. ADMINISTRATION AND OVERSIGHT.
19	(a) REGULATIONS.—Not later than 16 months after
20	the date of the enactment of this Act, the Secretary, in
21	consultation with the Secretary of Commerce, the Admin-
22	istrator of the Small Business Administration, and other
23	heads of other relevant Federal agencies and departments,

shall promulgate regulations to carry out the amendments

25 made by this subtitle. Such regulations shall ensure that

- 1 such amendments are implemented in a manner that is
- 2 consistent with the protection of national security and pro-
- 3 motion of United States economic growth, job creation,
- 4 and competitiveness.

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- 5 (b) Modification of Dollar Amounts.—
- (1) IN GENERAL.—The Secretary may from time to time prescribe regulations increasing or decreasing any dollar amount specified in section 203(b)(6) of the Immigration and Nationality Act, as added by section 4802, section 101(a)(15)(X) of such Act, as added by section 4801, or section 214(s), as added by section 4801.
 - (2) Automatic adjustment.—Unless a dollar amount referred to in paragraph (1) is adjusted by the Secretary under paragraph (1), such dollar amount shall automatically adjust on January 1, 2016, by the percentage change in the Consumer Price Index (CPI–U) during fiscal year 2015, and on every fifth subsequent January 1 by the percentage change in the CPI–U during the previous 5 fiscal years, for any petition filed to classify an alien under this paragraph on or after the date of each automatic adjustment.
- 24 (c) OTHER AUTHORITY.—The Secretary, in the Sec-25 retary's unreviewable discretion, may deny or revoke the

- 1 approval of a petition seeking classification of an alien
- 2 under paragraph (6) of section 203(b) of the Immigration
- 3 and Nationality Act, as added by section 4802, or any
- 4 other petition, application, or benefit based upon the pre-
- 5 vious or concurrent filing or approval of a petition for clas-
- 6 sification of an alien under such paragraph (6), if the Sec-
- 7 retary determines, in the Secretary's sole and
- 8 unreviewable discretion, that the approval or continuation
- 9 of such petition, application, or benefit is contrary to the
- 10 national interest of the United States or for other good
- 11 cause.
- 12 (d) Reports.—Once every 3 years, the Secretary
- 13 shall submit to Congress a report on this subtitle and the
- 14 amendments made by this subtitle. Each such report shall
- 15 include—
- 16 (1) the number and percentage of entrepreneurs
- able to meet thresholds for nonimmigrant renewal
- and adjustment to green card status under the
- amendments made by this subtitle;
- 20 (2) an analysis of the program's economic im-
- 21 pact including job and revenue creation, increased
- investments and growth within business sectors and
- 23 regions;

1	(3) a description and breakdown of types of
2	businesses that entrepreneurs granted nonimmigrant
3	or immigrant status are creating;
4	(4) for each report following the Secretary's ini-
5	tial report submitted under this subsection, a de-
6	scription of the percentage of the businesses initially
7	created by the entrepreneurs granted immigrant and
8	nonimmigrant status under this subtitle and the
9	amendments made by this subtitle, that are still in
10	operation; and
11	(5) any recommendations for improving the
12	program established by this subtitle and the amend-
10	menta mada bir thia aribtitle
13	ments made by this subtitle.
13 14	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE-
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14	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE-
14 15	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of
14 15 16 17	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of
14 15 16 17 18	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related
14 15 16 17 18	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)
14 15 16 17 18 19 20	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed.
14 15 16 17 18 19 20 21	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE- GIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed. (b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C.
14 15 16 17 18 19 20 21	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 REGIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed. (b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following section 203(b)(5)).
14 15 16 17 18 19 20 21	SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 REGIONAL CENTER PROGRAM. (a) REPEAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed. (b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

1	fied immigrants participating in a program
2	implementing this paragraph that involves
3	a regional center in the United States,
4	which has been designated by the Sec-
5	retary of Homeland Security, in consulta-
6	tion with the Secretary of Commerce, on
7	the basis of a general proposal for the pro-
8	motion of economic growth, including—
9	"(I) increased export sales;
10	"(II) improved regional produc-
11	tivity;
12	"(III) job creation; or
13	"(IV) increased domestic capital
14	investment.
15	"(ii) Establishment of a regional
16	CENTER.—A regional center shall have ju-
17	risdiction over a defined geographic area,
18	which shall be described in the proposal
19	and consistent with the purpose of concen-
20	trating pooled investment in defined eco-
21	nomic zones. The establishment of a re-
22	gional center may be based on general pre-
23	dictions, contained in the proposal, con-
24	cerning—

1	"(I) the kinds of commercial en-
2	terprises that will receive investments
3	from aliens;
4	"(II) the jobs that will be created
5	directly or indirectly as a result of
6	such investments; and
7	"(III) other positive economic ef-
8	fects such investments will have.
9	"(iii) Compliance.—In determining
10	compliance with subparagraph (A)(ii), the
11	Secretary of Homeland Security shall per-
12	mit aliens admitted under the program de-
13	scribed in this subparagraph to establish
14	reasonable methodologies for determining
15	the number of jobs created by the pro-
16	gram, including jobs estimated to have
17	been created indirectly through—
18	"(I) revenues generated from in-
19	creased exports, improved regional
20	productivity, job creation; or
21	"(II) increased domestic capital
22	investment resulting from the pro-
23	gram, including jobs created outside
24	of the geographic boundary of the re-
25	gional center as a result of the immi-

1	grant's investment in regional center-
2	affiliated commercial enterprises.
3	"(iv) Indirect Job Creation.—The
4	Secretary shall permit immigrants admit-
5	ted under this paragraph to satisfy the re-
6	quirements under subparagraph (A)(ii)
7	with jobs that are estimated to be created
8	indirectly through investment under this
9	paragraph in accordance with this sub-
10	paragraph.
11	"(F) Preapproval of business plans
12	FOR REGIONAL CENTER INVESTMENTS.—
13	"(i) Petition.—Before the filing of a
14	petition under this subparagraph by an
15	alien investor, a commercial enterprise af-
16	filiated with a regional center may file a
17	petition with the Secretary of Homeland
18	Security to preapprove a particular invest-
19	ment in the commercial enterprise, as pro-
20	vided in—
21	"(I) a business plan for a specific
22	capital investment project;
23	"(II) investment documents, such
24	as subscription, investment, partner-
25	ship, and operating agreements; and

1	"(III) a credible economic anal-
2	ysis regarding estimated job creation
3	that is based upon reasonable meth-
4	odologies.
5	"(ii) Preapproval procedure.—
6	The Secretary shall establish a process to
7	facilitate the preapproval of business plans
8	under this subparagraph related to invest-
9	ment in a regional center commercial en-
10	terprise, which shall include an opportunity
11	for the applicant to address and cure any
12	deficiencies identified by the Secretary in
13	the applicant's business plan, investment
14	documents, or statement regarding job cre-
15	ation prior to a final determination. The
16	Secretary shall impose a fee for the use of
17	the process described in this clause suffi-
18	cient to recover the costs of its administra-
19	tion.
20	"(iii) Effect of preapproval of
21	BUSINESS PLAN FOR INVESTMENT IN RE-
22	GIONAL CENTER COMMERCIAL ENTER-
23	PRISE.—The preapproval of a petition

under this subparagraph shall be binding

for purposes of the adjudication of peti-

24

tions filed under this subparagraph by immigrants investing in the commercial enterprise unless the Secretary determines that there is evidence of fraud, misrepresentation, criminal misuse, a threat to national security, or other evidence affecting program eligibility that was not disclosed by the petitioner during the preapproval process.

"(iv) Expedited processing option

FOR ALIEN INVESTOR PETITIONS AFFILI
ATED WITH PREAPPROVED BUSINESS

PLANS.—The Secretary may establish a

premium processing option for alien inves
tors who are investing in a commercial en
terprise that has received preapproval

under this subparagraph and may impose

a fee for the use of that option sufficient

to recover all costs of the option.

"(v) Consideration of Criminal Activity in Establishing Eligibility Criteria.—The Secretary shall consider the potential for fraud, misrepresentation, criminal misuse, and threats to national security in establishing eligibility criteria

1	for any program the Secretary may estab-
2	lish under this subparagraph.
3	"(G) REGIONAL CENTER FINANCIAL
4	STATEMENTS.—
5	"(i) IN GENERAL.—Each regional cen-
6	ter designated under subparagraph (E)
7	shall annually submit, to the Director of
8	U.S. Citizenship and Immigration Services
9	(referred to in this subparagraph as the
10	'Director'), in a manner prescribed by the
11	Secretary of Homeland Security, financial
12	statements, including—
13	"(I) an accounting of all foreign
14	investor money invested through the
15	regional center; and
16	"(II) for each capital investment
17	project—
18	"(aa) an accounting of the
19	aggregate capital invested
20	through the regional center or af-
21	filiated commercial enterprises by
22	immigrants under this para-
23	graph;

1	"(bb) a description of how
2	such funds are being used to exe-
3	cute the approved business plan;
4	"(cc) evidence that 100 per-
5	cent of such investor funds have
6	been dedicated to the project;
7	"(dd) detailed evidence of
8	the progress made toward the
9	completion of the project;
10	"(ee) an accounting of the
11	aggregate direct and indirect jobs
12	created or preserved; and
13	"(ff) a certification by the
14	regional center that such state-
15	ments are accurate.
16	"(ii) Amendment of financial
17	STATEMENTS.—If the Director determines
18	that a financial statement required under
19	clause (i) is deficient, the Director may re-
20	quire the regional center to amend or sup-
21	plement such financial statement.
22	"(iii) Sanctions.—
23	"(I) Effect of violation.—If
24	the Director determines, after review-
25	ing the financial statements submitted

1	under clause (i), that a regional cen-
2	ter, director, or other individual in-
3	volved with a regional center (other
4	than an alien investor) has violated
5	any requirement under clause (i) or
6	that the regional center is conducting
7	itself in a manner inconsistent with its
8	designation, the Director may sanc-
9	tion the violating entity or individual
10	under subclause (II).
11	"(II) AUTHORIZED SANCTIONS.—
12	The Director shall establish a grad-
13	uated set of sanctions for violations
14	referred to in subclause (I), includ-
15	ing—
16	"(aa) fines equal to not
17	more than 5 percent of the total
18	capital invested by immigrant in-
19	vestors in the commercial enter-
20	prise's approved business plan;
21	"(bb) temporary suspension
22	from participation in the pro-
23	gram described in subparagraph
24	(E), which may be lifted by the
25	Director if the individual or enti-

1	ty cures the alleged violation
2	after being provided such an op-
3	portunity by the Director;
4	"(cc) permanent bar from
5	program participation for 1 or
6	more individuals affiliated with
7	the regional center; and
8	"(dd) termination of re-
9	gional center status.
10	"(H) Bona fides of persons involved
11 I	N REGIONAL CENTERS.—
12	"(i) In general.—No person shall be
13	permitted by any regional center to be in-
14	volved with the regional center as its prin-
15	cipal, representative, administrator, owner,
16	officer, board member, manager, executive,
17	general partner, fiduciary, marketer, pro-
18	moter, or other similar position of sub-
19	stantive authority for the operations, man-
20	agement or promotion of the regional cen-
21	ter if the Secretary of Homeland Secu-
22	rity—
23	"(I) determines such person has
24	been found liable within the previous
25	5 years for any criminal or civil viola-

1	tion of any law relating to fraud or
2	deceit, or at any time if such violation
3	involved a criminal conviction with a
4	term of imprisonment of at least 1
5	year or a criminal or civil violation of
6	any law or agency regulation in con-
7	nection with the purchase or sale of a
8	security; or
9	"(II) knows or has reasonable
10	cause to believe that the person is en-
11	gaged in, has ever been engaged in, or
12	seeks to engage in any—
13	"(aa) illicit trafficking in
14	any controlled substance;
15	"(bb) activity relating to es-
16	pionage or sabotage;
17	"(cc) activity related to
18	money laundering (as described
19	in section 1956 or 1957 of title
20	18, United States Code);
21	"(dd) terrorist activity (as
22	defined in clauses (iii) and (iv) of
23	section $212(a)(3)(B)$;
24	"(ee) human trafficking or
25	human rights offense; or

1	"(ff) violation of any stat-
2 ute	e, regulation, or Executive
3 Or	der regarding foreign financial
4 tra	insactions or foreign asset con-
5 tro	l.
6 "(ii) In	NFORMATION REQUIRED.—The
7 Secretary sl	hall require such attestations
8 and informa	tion, including, the submission
9 of fingerprin	nts to the Federal Bureau of
10 Investigation	n, and shall perform such
11 criminal rec	eord checks and other back-
ground chec	eks with respect to a regional
center, and	persons involved in a regional
center as de	escribed in clause (i), as the
15 Secretary co	onsiders appropriate to deter-
mine whether	er the regional center is in com-
pliance with	clause (i). The Secretary may
18 require the	information and attestations
19 described in	this clause from such regional
20 center, and	any person involved in the re-
gional center	r, at any time on or after the
date of the date	enactment of the Border Secu-
23 rity, Econon	nic Opportunity, and Immigra-

tion Modernization Act.

1	"(iii) Termination.—The Secretary
2	is authorized, in his or her unreviewable
3	discretion, to terminate any regional center
4	from the program under this paragraph if
5	he or she determines that—
6	"(I) the regional center is in vio-
7	lation of clause (i);
8	"(II) the regional center or any
9	person involved with the regional cen-
10	ter has provided any false attestation
11	or information under clause (ii);
12	"(III) the regional center or any
13	person involved with the regional cen-
14	ter fails to provide an attestation or
15	information requested by the Sec-
16	retary under clause (ii); or
17	"(IV) the regional center or any
18	person involved with the regional cen-
19	ter is engaged in fraud, misrepresen-
20	tation, criminal misuse, or threats to
21	national security.
22	"(I) REGIONAL CENTER COMPLIANCE
23	WITH SECURITIES LAWS.—
24	"(i) CERTIFICATION REQUIRED.—The
25	Secretary of Homeland Security shall not

1 approve an application for regional center
2 designation or regional center amendmen
3 that does not certify that the regional cen
4 ter and, to the best knowledge of the appli
5 cant, all parties to the regional center ar
6 in, and will maintain, compliance with th
7 securities laws of the United States.
8 "(ii) Termination or suspen
9 SION.—The Secretary shall terminate th
designation of any regional center that
does not provide the certification described
in subclause (i) on an annual basis. In ad
dition to any other authority provided to
the Secretary regarding the regional center
program described in subparagraph (E)
the Secretary may, in his or he
17 unreviewable discretion, suspend or termi
nate the designation of any regional center
if he or she determines that the regional
20 center or any party to the regional cen
21 ter—
22 "(I) is permanently or temporal
23 rarily enjoined by order, judgment, o
24 decree of any court of competent ju

1	risdiction in connection with the pur-
2	chase or sale of a security;
3	"(II) is subject to any final order
4	of the Securities and Exchange Com-
5	mission that—
6	"(aa) bars such person from
7	association with an entity regu-
8	lated by the Securities and Ex-
9	change Commission; or
10	"(bb) constitutes a final
11	order based on violations in con-
12	nection with the purchase or sale
13	of a security; or
14	"(III) knowingly submitted or
15	caused to be submitted a certification
16	described in clause (i) that contained
17	an untrue statement of a material fact
18	or omitted to state a material fact
19	necessary in order to make the state-
20	ments made, in the light of the cir-
21	cumstances under which they were
22	made, not misleading.
23	"(iii) Savings provision.—Nothing
24	in this subparagraph may be construed to
25	impair or limit the authority of the Securi-

1	ties and Exchange Commission under the
2	Federal securities laws.
3	"(iv) Defined Term.—For the pur-
4	pose of this subparagraph, the term 'party
5	to the regional center' shall include the re-
6	gional center, its agents, employees, and
7	attorneys, and any persons in active con-
8	cert or participation with the regional cen-
9	ter.
10	"(J) DENIAL OR REVOCATION.—If the Sec-
11	retary of Homeland Security determines, in his
12	or her unreviewable discretion, that the ap-
13	proval of a petition, application, or benefit de-
14	scribed in this subparagraph is contrary to the
15	national interest of the United States for rea-
16	sons relating to fraud, misrepresentation, crimi-
17	nal misuse, or threats to national security, the
18	Secretary may deny or revoke the approval of—
19	"(i) a petition seeking classification of
20	an alien as an alien investor under this
21	paragraph;
22	"(ii) a petition to remove conditions
23	under section 216A before granting lawful
24	permanent resident status or any other pe-
25	tition, application, or benefit based upon

1	the previous or concurrent filing or ap-
2	proval of a petition for classification of an
3	alien under this paragraph; or
4	"(iii) an application for designation as
5	a regional center.".
6	(e) Assistance by the Secretary of Com-
7	MERCE.—
8	(1) IN GENERAL.—The Secretary of Commerce,
9	upon the request of the Secretary, shall provide con-
10	sultation assistance for determining whether—
11	(A) a proposed regional center should be
12	designated, terminated, or subject to other ad-
13	judicative action; or
14	(B) a petitioner or applicant for a benefit
15	under section 203(b)(5) of the Immigration and
16	Nationality Act, as amended by subsection (b),
17	has met the requirements under such paragraph
18	with respect to job creation.
19	(2) Rulemaking.—The Secretary and the Sec-
20	retary of Commerce may each adopt such rules and
21	regulations as are necessary to carry out the con-
22	sultation process provided for in paragraph (1).
23	(3) Savings Provision.—Nothing in this sub-
24	section shall be construed to require consultation
25	with the Secretary of Commerce to continue the des-

1	ignation of a regional center approved before the
2	date of the enactment of this Act.
3	(d) Effective Date.—The amendments made by
4	this section—
5	(1) shall be effective upon the enactment of this
6	Act; and
7	(2) shall apply to—
8	(A) any application to designate a regional
9	center, and any person involved with the re-
10	gional center, that is pending or approved on or
11	after the date of the enactment of this Act; and
12	(B) any regional center approved before
13	the date of the enactment of this Act, on or
14	after a delayed effective date that is 1 year
15	after such date of enactment with respect to
16	any person involved in the regional center on or
17	after such delayed effective date.
18	SEC. 4805. CONDITIONAL PERMANENT RESIDENT STATUS
19	FOR CERTAIN EMPLOYMENT-BASED IMMI-
20	GRANTS, SPOUSES, AND CHILDREN.
21	(a) In General.—Section 216A (8 U.S.C. 1186b)
22	is amended to read as follows:

1	"SEC. 216A. CONDITIONAL PERMANENT RESIDENT STATUS
2	FOR CERTAIN EMPLOYMENT-BASED IMMI-
3	GRANTS, SPOUSES, AND CHILDREN.
4	"(a) In General.—
5	"(1) Conditional basis for status.—Not-
6	withstanding any other provision of this Act, em-
7	ployment-based immigrants (as defined in subsection
8	(f) (1) or (2)), alien spouses, and alien children (as
9	defined in subsection $(f)(3)$ shall be considered, at
10	the time of obtaining the status of an alien lawfully
11	admitted for permanent residence, to have obtained
12	such status on a conditional basis subject to the pro-
13	visions of this section.
14	"(2) Notice of requirements.—
15	"(A) AT TIME OF OBTAINING PERMANENT
16	RESIDENCE.—At the time an employment-based
17	immigrant, alien spouse, or alien child obtains
18	permanent resident status on a conditional
19	basis under paragraph (1), the Secretary of
20	Homeland Security shall provide for notice to
21	the alien, spouse, or child respecting the provi-
22	sions of this section and the requirements of
23	subsection $(c)(1)$ to have the conditional basis
24	of such status removed.
25	"(B) AT TIME OF REQUIRED PETITION.—
26	In addition, the Secretary of Homeland Secu-

1	rity shall attempt to provide notice to an em-
2	ployment-based immigrant, alien spouse, or
3	alien child, at or about the beginning of the 90-
4	day period described in subsection (d)(3), of the
5	requirements of subsection $(c)(1)$.
6	"(C) Effect of failure to provide
7	NOTICE.—The failure of the Secretary of
8	Homeland Security to provide a notice under
9	this paragraph shall not affect the enforcement
10	of the provisions of this section with respect to
11	an employment-based immigrant, alien spouse,
12	or alien child.
13	"(b) Termination of Status if Finding That
14	QUALIFYING EMPLOYMENT IMPROPER.—
15	"(1) ALIEN INVESTOR.—In the case of an alien
16	investor with permanent resident status on a condi-
17	tional basis under subsection (a), if the Secretary of
18	Homeland Security determines, before the second
19	anniversary of the alien's obtaining the status of
20	lawful admission for permanent residence, that—
21	"(A) the investment in the commercial en-
22	terprise was intended as a means of evading the
23	immigration laws of the United States;

1	"(B)(i) the alien did not invest, or was not
2	actively in the process of investing, the requisite
3	capital; or
4	"(ii) the alien was not sustaining the ac-
5	tions described in clause (i) throughout the pe-
6	riod of the alien's residence in the United
7	States; or
8	"(C) subject to the exception in subsection
9	(d)(4), the alien was otherwise not conforming
10	to the requirements under section 203(b)(5),
11	the Secretary shall so notify the alien investor and,
12	subject to paragraph (3), shall terminate the perma-
13	nent resident status of the alien (and the alien
14	spouse and alien child) involved as of the date of the
15	determination.
16	"(2) Employee of a federal national se-
17	CURITY, SCIENCE, AND TECHNOLOGY LABORATORY,
18	CENTER OR AGENCY.—In the case of an employee of
19	a Federal national security, science, and technology
20	laboratory, center, or agency (as defined pursuant to
21	section 203(b)(2)(C)) with permanent resident sta-
22	tus on a conditional basis under subsection (a), if
23	the Secretary of Homeland Security, in consultation
24	with the relevant employing department or agency,

determines, before the first anniversary of the alien's

1	obtaining the status of lawful admission for perma-
2	nent residence, that—
3	"(A) the qualifying employment was in-
4	tended as a means of evading the immigration
5	laws of the United States;
6	"(B) the alien has not completed or is not
7	likely to complete 12 months of qualifying con-
8	tinuous employment; or
9	"(C) the alien did not otherwise conform
10	with the requirements of section 203(b)(2),
11	the Secretary shall so notify the alien involved and,
12	subject to paragraph (3), shall terminate the perma-
13	nent resident status of the alien (and the alien
14	spouse and alien child) involved as of the date of the
15	determination.
16	"(3) Hearing in Removal Proceeding.—Any
17	alien whose permanent resident status is terminated
18	under paragraph (1) or (2) may request a review of
19	such determination in a proceeding to remove the
20	alien. In such proceeding, the burden of proof shall
21	be on the Secretary of Homeland Security to estab-
22	lish, by a preponderance of the evidence, that a con-
23	dition described in paragraph (1) or (2), as appro-
24	priate, is met.

1	"(c) Requirements of Timely Petition and
2	INTERVIEW FOR REMOVAL OF CONDITION.—
3	"(1) In general.—
4	"(A) PETITION AND INTERVIEW.—In order
5	for the conditional basis established under sub-
6	section (a) for an employment-based immigrant,
7	alien spouse, or alien child to be removed—
8	"(i) the employment-based immigrant
9	shall submit to the Secretary of Homeland
10	Security, during the period described in
11	subsection (d)(3), a petition which requests
12	the removal of such conditional basis and
13	which states, under penalty of perjury, the
14	facts and information described in para-
15	graph (1) or (2) of subsection (d), as ap-
16	propriate; and
17	"(ii) in accordance with subsection
18	(d)(3), the employment-based immigrant
19	must appear for a personal interview be-
20	fore an officer or employee of U.S. Citizen-
21	ship and Immigration Services respecting
22	such facts and information.
23	"(B) SEPARATE PETITION NOT RE-
24	QUIRED.—An alien spouse or alien child shall
25	not be required to file separate petitions under

1	subparagraph (A)(i) if the employment-based
2	immigrant's petition includes such alien spouse
3	or alien child.
4	"(C) EFFECT ON SPOUSE OR CHILD.—If
5	the alien spouse or alien child obtains perma-
6	nent residence on a conditional basis after the
7	employment-based immigrant files a petition
8	under subparagraph (A)(i)—
9	"(i) the conditional basis of the per-
10	manent residence of the alien spouse or
11	alien child shall be removed upon approval
12	of the employment-based immigrant's peti-
13	tion under this subsection;
14	"(ii) the permanent residence of the
15	alien spouse or alien child shall be uncon-
16	ditional if—
17	"(I) the employment-based immi-
18	grant's petition is approved before the
19	date on which the spouse or child ob-
20	tains permanent residence; or
21	"(II) the employment-based im-
22	migrant dies after the approval of a
23	petition under section 203(b)(5); and
24	"(iii) the alien child shall not be
25	deemed ineligible for approval under sec-

1	tion 203(b)(5) or removal of conditions
2	under this section if the alien child reaches
3	21 years of age during—
4	"(I) the pendency of the employ-
5	ment-based immigrant's petition
6	under section 203(b)(5); or
7	"(II) conditional residency under
8	such section.
9	"(D) Additional fee.—Notwithstanding
10	any other provision under this section, the Sec-
11	retary may require the employment-based immi-
12	grant to pay an additional fee for a petition
13	filed under subparagraph (A)(i) that includes
14	the alien's spouse and child or children.
15	"(2) Termination of Permanent Resident
16	STATUS FOR FAILURE TO FILE PETITION OR HAVE
17	PERSONAL INTERVIEW.—
18	"(A) IN GENERAL.—In the case of an alien
19	with permanent resident status on a conditional
20	basis under subsection (a), if—
21	"(i) no petition is filed with respect to
22	the alien in accordance with the provisions
23	of paragraph (1)(A); or
24	"(ii) unless there is good cause shown,
25	the employment-based immigrant fails to

1	appear at the interview described in para-
2	graph (1)(B) (if required under subsection
3	(d)(4)),
4	the Secretary of Homeland Security shall termi-
5	nate the permanent resident status of the alien
6	(and the alien's spouse and children if it was
7	obtained on a conditional basis under this sec-
8	tion or section 216) as of the second anniver-
9	sary of the alien's lawful admission for perma-
10	nent residence.
11	"(B) Hearing in Removal Pro-
12	CEEDING.—In any removal proceeding with re-
13	spect to an alien whose permanent resident sta-
14	tus is terminated under subparagraph (A), the
15	burden of proof shall be on the alien to estab-
16	lish compliance with the conditions of para-
17	graphs $(1)(A)$ and $(1)(B)$.
18	"(3) Determination after petition and
19	INTERVIEW.—
20	"(A) IN GENERAL.—If—
21	"(i) a petition is filed in accordance
22	with the provisions of paragraph (1)(A);
23	and

1	"(ii) the employment-based immigrant
2	appears at any interview described in para-
3	graph (1)(B),
4	the Secretary of Homeland Security shall make
5	a determination, not later than 90 days after
6	the date of such filing or interview (whichever
7	is later), as to whether the facts and informa-
8	tion described in paragraph (1) or (2) of sub-
9	section (d), as appropriate, and alleged in the
10	petition are true.
11	"(B) Removal of conditional basis if
12	FAVORABLE DETERMINATION.—
13	"(i) Header.—If the Secretary of
14	Homeland Security determines with re-
15	spect to a petition filed by an alien inves-
16	tor that such facts and information are
17	true, the Secretary shall so notify the alien
18	investor and shall remove the conditional
19	basis of the alien's status effective as of
20	the second anniversary of the alien's lawful
21	admission for permanent residence.
22	"(ii) Removal of conditional
23	BASIS FOR EMPLOYEE OF A FEDERAL NA-
24	TIONAL SECURITY, SCIENCE, AND TECH-
25	NOLOGY LABORATORY, CENTER OR AGEN-

CY.—If the Secretary of Homeland Secu-1 2 rity determines with respect to a petition 3 filed by an employee of a Federal national 4 security, science, and technology labora-5 tory, center, or agency that such facts and 6 information are true, the Secretary shall so 7 notify the alien and shall remove the condi-8 tional basis of the alien's status effective 9 as of the first anniversary of the alien's 10 lawful admission for permanent residence. 11 "(C) TERMINATION IF ADVERSE DETER-12 MINATION.—If the Secretary of Homeland Se-13 curity determines that such facts and informa-14 tion are not true, the Secretary shall so notify 15 the alien involved and, subject to subparagraph 16 (D), shall terminate the permanent resident 17 status of an employment-based immigrant, alien 18 spouse, or alien child as of the date of the de-

> "(D) Hearing in removal proceeding.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the

termination.

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1	Secretary of Homeland Security to establish, by
2	a preponderance of the evidence, that the facts
3	and information described in subsection $(d)(1)$
4	and alleged in the petition are not true.
5	"(d) Details of Petition and Interview.—
6	"(1) Contents of Petition by Alien inves-
7	TOR.—Each petition filed by an alien investor under
8	section (c)(1)(A) shall contain facts and information
9	demonstrating that the alien—
10	"(A)(i) invested, or is actively in the proc-
11	ess of investing, the requisite capital; and
12	"(ii) sustained the actions described in
13	clause (i) throughout the period of the alien's
14	residence in the United States; and
15	"(B) except as provided in paragraph (4),
16	is otherwise conforming to the requirements
17	under section $203(b)(5)$.
18	"(2) Contents of Petition by Employee of
19	A FEDERAL NATIONAL SECURITY, SCIENCE, AND
20	TECHNOLOGY LABORATORY, CENTER, OR AGENCY.—
21	Each petition under subsection $(c)(1)(A)$ filed by an
22	employee of a Federal national security, science, and
23	technology laboratory, center, or agency shall con-
24	tain facts and information demonstrating that the

1	alien is conforming to the requirements of section
2	203(b)(2).
3	"(3) Period for filing petition.—
4	"(A) 90-day period before anniver-
5	SARY.—Except as provided in subparagraph
6	(B), the petition under subsection $(c)(1)(A)$
7	must be filed as follows:
8	"(i) In the case of an alien investor,
9	during the 90-day period before the second
10	anniversary of the alien's lawful admission
11	for permanent residence.
12	"(ii) In the case of an employee of a
13	Federal national security, science, and
14	technology laboratory, center, or agency,
15	during the 90-day period before the first
16	anniversary of the alien's lawful admission
17	for permanent residence.
18	"(B) Late petitions.—Such a petition
19	may be considered if filed after such date, but
20	only if the alien establishes to the satisfaction
21	of the Secretary of Homeland Security good
22	cause and extenuating circumstances for failure
23	to file the petition during the period described
24	in subparagraph (A).

"(C) FILING OF PETITIONS DURING RE-MOVAL.—In the case of an alien who is the sub-ject of removal hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Secretary of Home-land Security may stay such removal pro-ceedings against an alien pending the filing of the petition under subparagraph (B).

"(4) Personal interview.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of U.S. Citizenship and Immigration Services, designated by the Secretary of Homeland Security, which is convenient to the parties involved. The Secretary, in the discretion of the Secretary, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(5) SPECIAL RULE FOR ALIEN INVESTORS IN A REGIONAL CENTER.—Each petition under subsection (c)(1)(A) filed by an alien investor who invests in accordance with section 203(b)(5)(E) shall contain facts and information demonstrating that the alien is complying with the requirements under section 203(b)(5), except—

1	"(A) the alien shall not be subject to the
2	requirements under section 203(b)(5)(A)(ii);
3	and
4	"(B) the petition shall contain the most re-
5	cent financial statement filed by the regional
6	center in which the alien has invested in accord-
7	ance with section $203(b)(5)(G)$.
8	"(e) Treatment of Period for Purposes of
9	NATURALIZATION.—For purposes of title III, in the case
10	of an alien who is in the United States as a lawful perma-
11	nent resident on a conditional basis under this section, the
12	alien shall be considered to have been admitted as an alien
13	lawfully admitted for permanent residence and to be in
14	the United States as an alien lawfully admitted to the
15	United States for permanent residence, if the alien has
16	had the conditional basis removed pursuant to this section.
17	"(f) Fraud, Misrepresentation, Criminal Mis-
18	USE, OR THREATS TO THE PUBLIC SAFETY OR NATIONAL
19	SECURITY.—If the Secretary of Homeland Security deter-
20	mines, in his or her sole and unreviewable discretion, that
21	the conditional permanent resident status granted to an
22	employment-based immigrant under subsection (a), or to
23	an alien researcher described in section $203(b)(2)(A)(ii)$
24	is contrary to the national interest of the United States
25	for reasons relating to fraud, misrepresentation, criminal

1	misuse, or threats to national security, the Secretary
2	shall—
3	"(1) notify the immigrant involved of such de-
4	termination; and
5	"(2) terminate the permanent resident status of
6	the immigrant involved (and the alien spouse and
7	alien children of such immigrant) as of the date of
8	such determination.
9	"(g) Definitions.—In this section:
10	"(1) The term 'alien investor' means an alien
11	who obtains the status of an alien lawfully admitted
12	for permanent residence (whether on a conditional
13	basis or otherwise) under section 203(b)(5).
14	"(2) The term 'alien spouse' and the term 'alien
15	child' mean an alien who obtains the status of an
16	alien lawfully admitted for permanent residence
17	(whether on a conditional basis or otherwise) by vir-
18	tue of being the spouse or child, respectively, of an
19	alien investor or an employee of a Federal national
20	security, science, and technology laboratory, center,
21	or agency.
22	"(3) The term 'commercial enterprise' includes
23	a limited partnership.
24	"(4) The term 'employment-based immigrant'

means an alien described in paragraph (1) or (5).

- 1 "(5) The term 'employee of a Federal national
- 2 security, science, and technology laboratory, center,
- 3 or agency' means an alien who obtains the status of
- 4 an alien lawfully admitted for permanent residence
- 5 (whether on a conditional basis or otherwise) under
- 6 section 203(b)(2)(A)(ii).".
- 7 (b) Conforming Amendment.—Section 216(e) (8)
- 8 U.S.C. 1186a(e)) is amended by inserting before the pe-
- 9 riod at the end the following: ", if the alien has had the
- 10 conditional basis removed pursuant to this section".
- 11 (c) CLERICAL AMENDMENT.—The table of contents
- 12 is amended by striking the item relating to section 216A
- 13 and inserting the following:

"Sec. 216A. Conditional permanent resident status for certain employment-based immigrants, spouses, and children.".

14 SEC. 4806. EB-5 VISA REFORMS.

- 15 (a) Aliens Not Subject to Direct Numerical
- 16 Limitation.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)),
- 17 as amended by sections 2103(c)(2), 2212(d)(2), 2307(b),
- 18 and 2402, is further amended by adding at the end the
- 19 following:
- 20 "(P) Aliens who are the spouse or a child of an
- 21 alien admitted as an employment-based immigrant
- 22 under section 203(b)(5).".
- 23 (b) TECHNICAL AMENDMENT.—Section 203(b)(5), as
- 24 amended by this Act, is further amended by striking "At-

1	torney General" each place it appears and inserting "Sec-
2	retary of Homeland Security".
3	(c) TARGETED EMPLOYMENT AREAS.—
4	(1) In General.—Section 203(b)(5)(B) (8
5	U.S.C. 1153(b)(5)(B)) is amended to read as fol-
6	lows:
7	"(B) Set-aside for targeted employ-
8	MENT AREAS.—
9	"(i) In general.—Not fewer than
10	5,000 of the visas made available under
11	this paragraph in each fiscal year shall be
12	reserved for qualified immigrants who in-
13	vest in a new commercial enterprise de-
14	scribed in subparagraph (A), which—
15	"(I) is investing such capital in a
16	targeted employment area; and
17	"(II) will create employment in
18	such targeted employment area.
19	"(ii) Duration of high unemploy-
20	MENT AND POVERTY AREA DESIGNA-
21	TION.—A designation of a high unemploy-
22	ment or poverty area as a targeted employ-
23	ment area shall be valid for 5 years and
24	may be renewed for additional 5-year peri-
25	ods if the area continues to meet the defi-

1	nition of a high unemployment or poverty
2	area. An investor who has made the re-
3	quired amount of investment in such a tar-
4	geted employment area during its period of
5	designation shall not be required to in-
6	crease the amount of investment based
7	upon expiration of the designation.".
8	(d) Adjustment of Minimum EB-5 Investment
9	Amount.—Section 203(b)(5)(C)(i) (8 U.S.C.
10	1153(b)(5)(C)(i)) is amended—
11	(1) by striking "The Attorney General" and in-
12	serting "The Secretary of Commerce";
13	(2) by striking "Secretary of State" and insert-
14	ing "Secretary of Homeland Security"; and
15	(3) by adding at the end the following: "Unless
16	adjusted by the Secretary of Commerce, the amount
17	specified in this clause shall automatically adjust, on
18	January 1, 2016, by the percentage change in the
19	Consumer Price Index (CPI-U) during fiscal year
20	2015, and on every fifth subsequent January 1 by
21	the cumulative percentage change in the CPI–U dur-
22	ing the previous 5 fiscal years, for any petition filed
23	to classify an alien under this paragraph on or after
24	the date of each automatic adjustment.".
25	(e) Definitions —

1	(1) In General.—Section 203(b)(5) (8 U.S.C.
2	1153(b)(5)), as amended by subsections (b) and (c)
3	and section 4804, is further amended—
4	(A) by striking subparagraph (D) and in-
5	serting following:
6	"(D) CALCULATION OF FULL-TIME EM-
7	PLOYMENT.—Job creation under this paragraph
8	may consist of employment measured in full-
9	time equivalents, such as intermittent or sea-
10	sonal employment opportunities and construc-
11	tion jobs. A full-time employment position is
12	not a requirement for indirect job creation.";
13	and
14	(B) by adding at the end the following:
14 15	(B) by adding at the end the following:"(K) DEFINITIONS.—In this paragraph:
15	"(K) Definitions.—In this paragraph:
15 16	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real,
15 16 17	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible
15 16 17 18	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible or intangible, owned or controlled by the
15 16 17 18 19	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible or intangible, owned or controlled by the investor, or held in trust for the benefit of
15 16 17 18 19 20	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible or intangible, owned or controlled by the investor, or held in trust for the benefit of the investor, to which the investor has un-
15 16 17 18 19 20 21	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible or intangible, owned or controlled by the investor, or held in trust for the benefit of the investor, to which the investor has un- restricted access, which shall be valued at
15 16 17 18 19 20 21	"(K) Definitions.—In this paragraph: "(i) The term 'capital' means all real, personal, or mixed assets, whether tangible or intangible, owned or controlled by the investor, or held in trust for the benefit of the investor, to which the investor has un- restricted access, which shall be valued at fair market value in United States dollars,

1	"(ii) The term 'full-time employment'
2	means employment in a position that re-
3	quires at least 35 hours of service per
4	week, regardless of how many employees
5	fill the position.
6	"(iii) The term 'high unemployment
7	and poverty area' means—
8	"(I) an area consisting of a cen-
9	sus tract or contiguous census tracts
10	that has an unemployment rate that
11	is at least 150 percent of the national
12	average unemployment rate and in-
13	cludes at least 1 census tract with 20
14	percent of its residents living below
15	the poverty level as determined by the
16	Bureau of the Census; or
17	(Π) an area that is within the
18	boundaries established for purposes of
19	a Federal or State economic develop-
20	ment incentive program, including
21	areas defined as Enterprise Zones,
22	Renewal Communities, Promise
23	Zones, and Empowerment Zones.
24	"(iv) The term 'rural area' means—

1	"(I) any area other than an area
2	within a metropolitan statistical area
3	or within the outer boundary of any
4	city or town having a population of
5	20,000 or more (based on the most
6	recent decennial census of the United
7	States); or
8	"(II) any city or town having a
9	population of fewer than 20,000
10	(based on the most recent decennial
11	census of the United States) that is
12	located within a State having a popu-
13	lation of fewer than 1,500,000 (based
14	on the most recent decennial census of
15	the United States).
16	"(v) The term 'targeted employment
17	area' means a rural area or a high unem-
18	ployment and poverty area.".
19	(2) Effective date.—The amendment made
20	by paragraph (1) shall apply to any application for
21	a visa under section 203(b)(5) of the Immigration
22	and Nationality Act that is filed on or after the date
23	that is 1 year after the date of the enactment of this
24	Act.

- 1 (f) AGE DETERMINATION FOR CHILDREN OF ALIEN
- 2 Investors.—Section 203(h) (8 U.S.C. 1153(h)) is
- 3 amended by adding at the end the following:
- 4 "(5) Age determination for Children of
- 5 ALIEN INVESTORS.—An alien admitted under sub-
- 6 section (d) as a lawful permanent resident on a con-
- 7 ditional basis as the child of an alien lawfully admit-
- 8 ted for permanent residence under subsection (b)(5),
- 9 whose lawful permanent resident status on a condi-
- tional basis is terminated under section 216A, shall
- 11 continue to be considered a child of the principal
- alien for the purpose of a subsequent immigrant pe-
- tition by such alien under subsection (b)(5) if the
- alien remains unmarried and the subsequent petition
- is filed by the principal alien not later than 1 year
- after the termination of conditional lawful perma-
- 17 nent resident status. No alien shall be considered a
- child under this paragraph with respect to more
- than 1 petition filed after the alien's 21st birth-
- 20 day.".
- 21 (g) Enhanced Pay Scale for Certain Federal
- 22 Employees Administering the EB-5 Program.—The
- 23 Secretary may establish, fix the compensation of, and ap-
- 24 point individuals to, designated critical administrative,
- 25 technical, and professional positions needed to administer

- 1 sections 203(b)(5) and 216A of the Immigration and Na-
- 2 tionality Act (8 U.S.C. 1153(b)(5) and 1186b).

ment creation requirements.

- 3 (h) Delegation of Certain EB-5 Authority.—
- 4 (1) IN GENERAL.—The Secretary of Homeland 5 Security may delegate to the Secretary of Commerce 6 authority and responsibility for determinations 7 under sections 203(b)(5) and 216A (with respect to 8 alien entrepreneurs) of the Immigration and Nation-9 ality Act (8 U.S.C. 1153(b)(5) and 1186a), includ-10 ing determining whether an alien has met employ-
 - (2) REGULATIONS.—The Secretary of Homeland Security and the Secretary of Commerce may each adopt such rules and regulations as are necessary to carry out the delegation authorized under paragraph (1), including regulations governing the eligibility criteria for obtaining benefits pursuant to the amendments made by this section.
 - (3) USE OF FEES.—Adjudication fees described in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) shall remain available until expended to reimburse the Secretary of Commerce for the costs of any determinations made by the Secretary of Commerce under paragraph (1).

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- 1 (i) Concurrent Filing of EB–5 Petitions and
- 2 Applications for Adjustment of Status.—Section
- 3 245 (8 U.S.C. 1255), as amended by section 4237(b), is
- 4 further amended—
- 5 (1) in subsection (k), in the matter preceding
- 6 paragraph (1), by striking "or (3)" and inserting
- 7 "(3), (5), or (7)"; and
- 8 (2) by adding at the end the following:
- 9 "(o) At the time a petition is filed for classification
- 10 under section 203(b)(5), if the approval of such petition
- 11 would make a visa immediately available to the alien bene-
- 12 ficiary, the alien beneficiary's application for adjustment
- 13 of status under this section shall be considered to be prop-
- 14 erly filed whether the application is submitted concur-
- 15 rently with, or subsequent to, the visa petition.".
- 16 SEC. 4807. AUTHORIZATION OF APPROPRIATIONS.
- 17 (a) Funding.—There are authorized to be appro-
- 18 priated from the Trust Fund established under section
- 19 6(a) such sums as may be necessary to carry out sections
- 20 1110, 2101, 2104, 2212, 2213, 2221, 2232, 3301, 3501,
- 21 3502, 3503, 3504, 3505, 3506, 3605, 3610, 4221, and
- 22 4401 of this Act.
- 23 (b) Availability of Funds.—Amounts appro-
- 24 priated pursuant to this section shall remain available
- 25 until expended unless otherwise specified in this Act.

Subtitle I—Student and Exchange

2 Visitor Programs

- 3 SEC. 4901. SHORT TITLE.
- 4 This subtitle may be cited as the "Student Visa In-
- 5 tegrity Act".

- 6 SEC. 4902. SEVIS AND SEVP DEFINED.
- 7 In this subtitle:
- 8 (1) SEVIS.—The term "SEVIS" means the
- 9 Student and Exchange Visitor Information System
- of the Department of Homeland Security.
- 11 (2) SEVP.—The term "SEVP" means the Stu-
- dent and Exchange Visitor Program of the Depart-
- ment of Homeland Security.
- 14 SEC. 4903. INCREASED CRIMINAL PENALTIES.
- 15 Section 1546(a) of title 18, United States Code, is
- 16 amended by striking "10 years" and inserting "15 years
- 17 (if the offense was committed by an owner, official, em-
- 18 ployee, or agent of an educational institution with respect
- 19 to such institution's participation in the Student and Ex-
- 20 change Visitor Program), 10 years".
- 21 SEC. 4904. ACCREDITATION REQUIREMENT.
- 22 Section 101(a)(52) (8 U.S.C. 1101(a)(52)) is amend-
- 23 ed to read as follows:
- 24 "(52) Except as provided in section 214(m)(4), the
- 25 term 'accredited college, university, or language training

1	program' means a college, university, or language training
2	program that is accredited by an accrediting agency recog-
3	nized by the Secretary of Education.".
4	SEC. 4905. OTHER ACADEMIC INSTITUTIONS.
5	Section 214(m) (8 U.S.C. 1184(m)) is amended by
6	adding at the end the following:
7	"(3) The Secretary of Homeland Security shall re-
8	quire accreditation of an academic institution (except for
9	seminaries or other religious institutions) for purposes of
10	section 101(a)(15)(F) if—
11	"(A) that institution is not already required to
12	be accredited under section $101(a)(15)(F)(i)$; and
13	"(B) an appropriate accrediting agency recog-
14	nized by the Secretary of Education is able to pro-
15	vide such accreditation.
16	"(4) The Secretary of Homeland Security, in the Sec-
17	retary's discretion, may waive the accreditation require-
18	ment in section $101(a)(15)(F)(i)$ with respect to an ac-
19	credited college, university, or language training program
20	if the academic institution—
21	"(A) is otherwise in compliance with the re-
22	quirements of such section; and
23	"(B) is, on the date of the enactment of the Il-
24	legal Immigration Reform and Immigrant Responsi-
25	bility Act of 1996, a candidate for accreditation or,

1	after such date, has been a candidate for accredita-
2	tion for at least 1 year and continues to progress to-
3	ward accreditation by an accreditation agency recog-
4	nized by the Secretary of Education.".
5	SEC. 4906. PENALTIES FOR FAILURE TO COMPLY WITH
6	SEVIS REPORTING REQUIREMENTS.
7	Section 641 of the Illegal Immigration Reform and
8	Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is
9	amended—
10	(1) in subsection $(e)(1)$ —
11	(A) by striking "institution,," each place it
12	appears and inserting "institution,"; and
13	(B) in subparagraph (D), by striking
14	"and" at the end;
15	(2) in subsection (d)(2), by striking "fails to
16	provide the specified information" and all that fol-
17	lows and inserting "does not comply with the report-
18	ing requirements set forth in this section, the Sec-
19	retary of Homeland Security may—
20	"(A) impose a monetary fine on such insti-
21	tution in an amount to be determined by the
22	Secretary; and
23	"(B) suspend the authority of such institu-
24	tion to issue a Form I-20 to any alien.".

SEC. 4907. VISA FRAUD.

2	(a) Immediate Withdrawal of SEVP Certifi-
3	CATION.—Section 641(d) of the Illegal Immigration Re-
4	form and Immigrant Responsibility Act of 1996 (8 U.S.C.
5	1372(d)) is amended—
6	(1) in paragraph (1)(A), by striking "institu-
7	tion,," and inserting "institution,"; and
8	(2) by adding at the end the following:
9	"(3) Effect of reasonable suspicion of
10	FRAUD.—If the Secretary of Homeland Security has
11	reasonable suspicion that an owner of, or a des-
12	ignated school official at, an approved institution of
13	higher education, an other approved educational in-
14	stitution, or a designated exchange visitor program
15	has committed fraud or attempted to commit fraud
16	relating to any aspect of the Student and Exchange
17	Visitor Program, or if such owner or designated
18	school official is indicted for such fraud, the Sec-
19	retary may immediately—
20	"(A) suspend such certification without
21	prior notification; and
22	"(B) suspend such official's or such
23	school's access to the Student and Exchange
24	Visitor Information System (SEVIS).".
25	(b) Effect of Conviction for Visa Fraud.—Sec-
26	tion 641(d) of the Illegal Immigration Reform and Immi-

- 1 grant Responsibility Act of 1996, as amended by sub-
- 2 section (a), is further amended by adding at the end the
- 3 following:
- 4 "(5) Permanent disqualification for
- 5 FRAUD.—A designated school official at, or an owner
- of, an approved institution of higher education, an
- 7 other approved educational institution, or a des-
- 8 ignated exchange visitor program who is convicted
- 9 for fraud relating to any aspect of the Student and
- 10 Exchange Visitor Program shall be permanently dis-
- 11 qualified from filing future petitions and from hav-
- ing an ownership interest or a management role (in-
- cluding serving as a principal, owner, officer, board
- member, general partner, designated school official,
- or any other position of substantive authority for the
- operations or management of the institution) in any
- 17 United States educational institution that enrolls
- 18 nonimmigrant alien students described in subpara-
- graph (F) or (M) of section 101(a)(15) of the Immi-
- 20 gration and Nationality Act (8 U.S.C.
- 21 1101(a)(15)).".
- 22 SEC. 4908. BACKGROUND CHECKS.
- 23 (a) IN GENERAL.—Section 641(d) of the Illegal Im-
- 24 migration Reform and Immigrant Responsibility Act of
- 25 1996 (8 U.S.C. 1372(d)), as amended by section 4907 of

1	this Act, is further amended by adding at the end the fol-
2	lowing:
3	"(6) Background Check Requirement.—
4	"(A) IN GENERAL.—An individual may not
5	serve as a designated school official or be grant-
6	ed access to SEVIS unless the individual is a
7	national of the United States or an alien law-
8	fully admitted for permanent residence and dur-
9	ing the most recent 3-year period—
10	"(i) the Secretary of Homeland Secu-
11	rity has—
12	"(I) conducted a thorough back-
13	ground check on the individual, in-
14	cluding a review of the individual's
15	criminal and sex offender history and
16	the verification of the individual's im-
17	migration status; and
18	(Π) determined that the indi-
19	vidual—
20	"(aa) has not been convicted
21	of any violation of United States
22	immigration law; and
23	"(bb) is not a risk to the na-
24	tional security of the United
25	States; and

1	"(ii) the individual has successfully
2	completed an on-line training course on
3	SEVP and SEVIS, which has been devel-
4	oped by the Secretary.
5	"(B) Interim designated school offi-
6	CIAL.—
7	"(i) In general.—An individual may
8	serve as an interim designated school offi-
9	cial during the period that the Secretary is
10	conducting the background check required
11	by subparagraph (A)(i)(I).
12	"(ii) Reviews by the secretary.—
13	If an individual serving as an interim des-
14	ignated school official under clause (i) does
15	not successfully complete the background
16	check required by subparagraph (A)(i)(I),
17	the Secretary shall review each Form I-20
18	issued by such interim designated school
19	official.
20	"(7) Fee.—The Secretary is authorized to col-
21	lect a fee from an approved school for each back-
22	ground check conducted under paragraph (6)(A)(i).
23	The amount of such fee shall be equal to the average
24	amount expended by the Secretary to conduct such
25	background checks.".

]	l (b)	EFFECTIVE	DATE.—The	amendment	made	by

- 2 subsection (a) shall take effect on the date that is 1 year
- 3 after the date of the enactment of this Act.
- 4 SEC. 4909. REVOCATION OF AUTHORITY TO ISSUE FORM I-
- 5 20 OF FLIGHT SCHOOLS NOT CERTIFIED BY
- 6 THE FEDERAL AVIATION ADMINISTRATION.
- 7 Immediately upon the enactment of this Act, the Sec-
- 8 retary shall prohibit any flight school in the United States
- 9 from accessing SEVIS or issuing a Form I–20 to an alien
- 10 seeking a student visa pursuant to subparagraph (F)(i)
- 11 or (M)(i) of section 101(a)(15) of the Immigration and
- 12 Nationality Act (8 U.S.C. 1101(a)(15)) if the flight school
- 13 has not been certified to the satisfaction of the Secretary
- 14 and by the Federal Aviation Administration pursuant to
- 15 part 141 or part 142 of title 14, Code of Federal Regula-
- 16 tions (or similar successor regulations).

17 SEC. 4910. REVOCATION OF ACCREDITATION.

- 18 At the time an accrediting agency or association is
- 19 required to notify the Secretary of Education and the ap-
- 20 propriate State licensing or authorizing agency of the final
- 21 denial, withdrawal, suspension, or termination of accredi-
- 22 tation of an institution pursuant to section 496 of the
- 23 Higher Education Act of 1965 (20 U.S.C. 1099b), such
- 24 accrediting agency or association shall notify the Secretary
- 25 of Homeland Security of such determination and the Sec-

- 1 retary of Homeland Security shall immediately withdraw
- 2 the school from the SEVP and prohibit the school from
- 3 accessing SEVIS.

4 SEC. 4911. REPORT ON RISK ASSESSMENT.

- 5 Not later than 180 days after the date of the enact-
- 6 ment of this Act, the Secretary shall submit to the Com-
- 7 mittee on the Judiciary of the Senate and the Committee
- 8 on the Judiciary of the House of Representatives a report
- 9 that contains the risk assessment strategy that will be em-
- 10 ployed by the Secretary to identify, investigate, and take
- 11 appropriate action against schools and school officials that
- 12 are facilitating the issuance of Form I–20 and the mainte-
- 13 nance of student visa status in violation of the immigra-
- 14 tion laws of the United States.

15 SEC. 4912. IMPLEMENTATION OF GAO RECOMMENDATIONS.

- Not later than 180 days after the date of the enact-
- 17 ment of this Act, the Secretary shall submit to the Com-
- 18 mittee on the Judiciary of the Senate and the Committee
- 19 on the Judiciary of the House of Representatives a report
- 20 that describes—
- 21 (1) the process in place to identify and assess
- 22 risks in the SEVP;
- 23 (2) a risk assessment process to allocate
- 24 SEVP's resources based on risk;

1	(3) the procedures in place for consistently en-
2	suring a school's eligibility, including consistently
3	verifying in lieu of letters;
4	(4) how SEVP identified and addressed missing
5	school case files;
6	(5) a plan to develop and implement a process
7	to monitor State licensing and accreditation status
8	of all SEVP-certified schools;
9	(6) whether all flight schools that have not been
10	certified to the satisfaction of the Secretary and by
11	the Federal Aviation Administration have been re-
12	moved from the program and have been restricted
13	from accessing SEVIS;
14	(7) the standard operating procedures that gov-
15	ern coordination among SEVP, Counterterrorism
16	and Criminal Exploitation Unit, and U.S. Immigra-
17	tion and Customs Enforcement field offices; and
18	(8) the established criteria for referring cases of
19	a potentially criminal nature from SEVP to the
20	counterterrorism and intelligence community.
21	SEC. 4913. IMPLEMENTATION OF SEVIS II.
22	Not later than 2 years after the date of the enact-
23	ment of this Act, the Secretary shall complete the deploy-
24	ment of both phases of the second generation Student and

1	Exchange Visitor Information System (commonly known
2	as "SEVIS II").
3	TITLE V—JOBS FOR YOUTH
4	SEC. 5101. DEFINITIONS.
5	In this title:
6	(1) CHIEF ELECTED OFFICIAL.—The term
7	"chief elected official" means the chief elected execu-
8	tive officer of a unit of local government in a local
9	workforce investment area or in the case in which
10	such an area includes more than one unit of general
11	government, the individuals designated under an
12	agreement described in section $117(c)(1)(B)$ of the
13	Workforce Investment Act of 1998 (29 U.S.C.
14	2832(e)(1)(B)).
15	(2) Local workforce investment area.—
16	The term "local workforce investment area" means
17	such area designated under section 116 of the Work-
18	force Investment Act of 1998 (29 U.S.C. 2831).
19	(3) Local workforce investment board.—
20	The term "local workforce investment board" means
21	such board established under section 117 of the
22	Workforce Investment Act of 1998 (29 U.S.C.
23	2832).
24	(4) Low-income youth.—The term "low-in-
25	come youth" means an individual who—

1	(A) is not younger than 16 but is younger
2	than 25;
3	(B) meets the definition of a low-income
4	individual provided in section 101(25) of the
5	Workforce Investment Act of 1998 (29 U.S.C.
6	2801(25)), except that States and local work-
7	force investment areas, subject to approval in
8	the applicable State plans and local plans, may
9	increase the income level specified in subpara-
10	graph (B)(i) of such section to an amount not
11	in excess of 200 percent of the poverty line for
12	purposes of determining eligibility for participa-
13	tion in activities under section 5103; and
14	(C) is in one or more of the categories
15	specified in section 101(13)(C) of the Work-
16	force Investment Act of 1998 (29 U.S.C.
17	2801(13)(C)).
18	(5) POVERTY LINE.—The term "poverty line"
19	means a poverty line as defined in section 673 of the
20	Community Services Block Grant Act (42 U.S.C.
21	9902), applicable to a family of the size involved.
22	(6) State.—The term "State" means each of
23	the several States of the United States, and the Dis-
24	trict of Columbia.

1 SEC. 5102. ESTABLISHMENT OF YOUTH JOBS FUND.

- 2 (a) Establishment.—There is established in the
- 3 Treasury of the United States an account that shall be
- 4 known as the Youth Jobs Fund (referred to in this title
- 5 as "the Fund").
- 6 (b) Deposits Into the Fund.—Out of any
- 7 amounts in the Treasury not otherwise appropriated, there
- 8 is appropriated \$1,500,000,000 for fiscal year 2014,
- 9 which shall be paid to the Fund, to be used by the Sec-
- 10 retary of Labor to carry out this title.
- 11 (c) AVAILABILITY OF FUNDS.—Of the amounts de-
- 12 posited into the Fund under subsection (b), the Secretary
- 13 of Labor shall allocate \$1,500,000,000 to provide summer
- 14 and year-round employment opportunities to low-income
- 15 youth in accordance with section 5103.
- 16 (d) Period of Availability.—The amounts appro-
- 17 priated under this title shall be available for obligation by
- 18 the Secretary of Labor until December 31, 2014, and shall
- 19 be available for expenditure by grantees (including sub-
- 20 grantees) until September 30, 2015.
- 21 SEC. 5103. SUMMER EMPLOYMENT AND YEAR-ROUND EM-
- 22 PLOYMENT OPPORTUNITIES FOR LOW-IN-
- 23 COME YOUTH.
- 24 (a) IN GENERAL.—From the funds available under
- 25 section 5102(c), the Secretary of Labor shall make an al-
- 26 lotment under subsection (c) to each State that has a

1	modification to a State plan approved under section 112
2	of the Workforce Investment Act of 1998 (29 U.S.C.
3	2822) (referred to in this section as a "State plan modi-
4	fication") (or other State request for funds specified in
5	guidance under subsection (b)) approved under subsection
6	(d) and recipient under section 166(e) of the Workforce
7	Investment Act of 1998 (29 U.S.C. 2911(c)) (referred to
8	in this section as a "Native American grantee") that
9	meets the requirements of this section, for the purpose of
10	providing summer employment and year-round employ-
11	ment opportunities to low-income youth.
12	(b) Guidance and Application of Require-
13	MENTS.—
14	(1) Guidance.—Not later than 20 days after
15	the date of enactment of this Act, the Secretary of
16	Labor shall issue guidance regarding the implemen-
17	tation of this section.
18	(2) Procedures.—Such guidance shall, con-
19	sistent with this section, include procedures for—
20	(A) the submission and approval of State
21	plan modifications, for such other forms of re-
22	quests for funds by the State as may be identi-
23	fied in such guidance, for modifications to local
24	plans approved under section 118 of the Work-
25	force Investment Act of 1998 (29 U.S.C. 2833)

- (referred to individually in this section as a
 "local plan modification"), or for such other
 forms of requests for funds by local workforce
 investment areas as may be identified in such
 guidance, that promote the expeditious and effective implementation of the activities authorized under this section; and
 - (B) the allotment and allocation of funds, including reallotment and reallocation of such funds, that promote such implementation.
 - (3) Requirements.—Except as otherwise provided in the guidance described in paragraph (1) and in this section and other provisions of this title, the funds provided for activities under this section shall be administered in accordance with the provisions of subtitles B and E of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq., 2911 et seq.) relating to youth activities.

(c) State Allotments.—

- (1) IN GENERAL.—Using the funds described in subsection (a), the Secretary of Labor shall allot to each State the total of the amounts assigned to the State under subparagraphs (A) and (B) of paragraph (2).
- 25 (2) Assignments to states.—

1	(A) MINIMUM AMOUNTS.—Using funds de-
2	scribed in subsection (a), the Secretary of
3	Labor shall assign to each State an amount
4	equal to $\frac{1}{2}$ of 1 percent of such funds.
5	(B) FORMULA AMOUNTS.—The Secretary
6	of Labor shall assign the remainder of the
7	funds described in subsection (a) among the
8	States by assigning—
9	(i) 33½ percent on the basis of the
10	relative number of individuals in the civil-
11	ian labor force who are not younger than
12	16 but younger than 25 in each State,
13	compared to the total number of individ-
14	uals in the civilian labor force who are not
15	younger than 16 but younger than 25 in
16	all States;
17	(ii) 33½ percent on the basis of the
18	relative number of unemployed individuals
19	in each State, compared to the total num-
20	ber of unemployed individuals in all States;
21	and
22	(iii) 33½ on the basis of the relative
23	number of disadvantaged young adults and
24	youth in each State, compared to the total

1	number of disadvantaged young adults and
2	youth in all States.

- (3) Reallotment.—If the Governor of a State does not submit a State plan modification or other State request for funds specified in guidance under subsection (b) by the date specified in subsection (d)(2)(A), or a State does not receive approval of such State plan modification or request, the amount the State would have been eligible to receive pursuant to paragraph (1) shall be allocated to States that receive approval of State plan modifications or requests specified in the guidance. Each such State shall receive a share of the total amount available for reallotment under this paragraph, in accordance with the State's share of the total amount allotted under paragraph (1) to such State.
- (4) DEFINITIONS.—For purposes of paragraph (2), the term "disadvantaged young adult or youth" means an individual who is not younger than 16 but is younger than 25 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—
- 24 (A) the poverty line; or

1	(B) 70 percent of the lower living standard
2	income level.
3	(d) STATE PLAN MODIFICATION.—
4	(1) In general.—For a State to be eligible to
5	receive an allotment of funds under subsection (c),
6	the Governor of the State shall submit to the Sec-
7	retary of Labor a State plan modification, or other
8	State request for funds specified in guidance under
9	subsection (b), in such form and containing such in-
10	formation as the Secretary may require. At a min-
11	imum, such State plan modification or request shall
12	include—
13	(A) a description of the strategies and ac-
14	tivities to be carried out to provide summer em-
15	ployment opportunities and year-round employ-
16	ment opportunities, including linkages to train-
17	ing and educational activities, consistent with
18	subsection (f);
19	(B) a description of the requirements the
20	State will apply relating to the eligibility of low-
21	income youth, consistent with section 5101(4),
22	for summer employment opportunities and year-
23	round employment opportunities, which require-
24	ments may include criteria to target assistance

to particular categories of such low-income

1	youth, such as youth with disabilities, con-
2	sistent with subsection (f);
3	(C) a description of the performance out-
4	comes to be achieved by the State through the
5	activities carried out under this section and the
6	processes the State will use to track perform-
7	ance, consistent with guidance provided by the
8	Secretary of Labor regarding such outcomes
9	and processes and with section 5104(b);
10	(D) a description of the timelines for im-
11	plementation of the strategies and activities de-
12	scribed in subparagraph (A), and the number of
13	low-income youth expected to be placed in sum-
14	mer employment opportunities, and year-round
15	employment opportunities, respectively, by
16	quarter;
17	(E) assurances that the State will report
18	such information, relating to fiscal, perform-
19	ance, and other matters, as the Secretary may
20	require and as the Secretary determines is nec-
21	essary to effectively monitor the activities car-
22	ried out under this section;
23	(F) assurances that the State will ensure
24	compliance with the requirements, restrictions,

1	labor standards, and other provisions described
2	in section 5104(a); and
3	(G) if a local board and chief elected offi-
4	cial in the State will provide employment oppor-
5	tunities with the link to training and edu-
6	cational activities described in subsection
7	(f)(2)(B), a description of how the training and
8	educational activities will lead to the industry-
9	recognized credential involved.
10	(2) Submission and approval of state
11	PLAN MODIFICATION OR REQUEST.—
12	(A) Submission.—The Governor shall
13	submit the State plan modification or other
14	State request for funds specified in guidance
15	under subsection (b) to the Secretary of Labor
16	not later than 30 days after the issuance of
17	such guidance.
18	(B) Approval.—The Secretary of Labor
19	shall approve the State plan modification or re-
20	quest submitted under subparagraph (A) within
21	30 days after submission, unless the Secretary
22	determines that the plan or request is incon-
23	sistent with the requirements of this section. It

the Secretary has not made a determination

within that 30-day period, the plan or request

24

1	shall be considered to be approved. If the plan
2	or request is disapproved, the Secretary may
3	provide a reasonable period of time in which the
4	plan or request may be amended and resub-
5	mitted for approval. If the plan or request is
6	approved, the Secretary shall allot funds to the
7	State under subsection (c) within 30 days after
8	such approval.
9	(3) Modifications to state plan or re-
10	QUEST.—The Governor may submit further modi-
11	fications to a State plan modification or other State
12	request for funds specified under subsection (b),
13	consistent with the requirements of this section.
14	(e) WITHIN-STATE ALLOCATION AND ADMINISTRA-
15	TION.—
16	(1) IN GENERAL.—Of the funds allotted to the
17	State under subsection (c), the Governor—
18	(A) may reserve not more than 5 percent
19	of the funds for administration and technical
20	assistance; and
21	(B) shall allocate the remainder of the
22	funds among local workforce investment areas
23	within the State in accordance with clauses (i)
24	through (iii) of subsection (c)(2)(B), except
25	that for purposes of such allocation references

to a State in subsection (c)(2)(B) shall be deemed to be references to a local workforce investment area and references to all States shall be deemed to be references to all local workforce investment areas in the State involved.

(2) Local Plan.—

(A) Submission.—In order to receive an allocation under paragraph (1)(B), the local workforce investment board, in partnership with the chief elected official for the local workforce investment area involved, shall submit to the Governor a local plan modification, or such other request for funds by local workforce investment areas as may be specified in guidance under subsection (b), not later than 30 days after the submission by the State of the State plan modification or other State request for funds specified in guidance under subsection (b), describing the strategies and activities to be carried out under this section.

(B) APPROVAL.—The Governor shall approve the local plan modification or other local request for funds submitted under subparagraph (A) within 30 days after submission, unless the Governor determines that the plan or

request is inconsistent with requirements of this section. If the Governor has not made a determination within that 30-day period, the plan shall be considered to be approved. If the plan or request is disapproved, the Governor may provide a reasonable period of time in which the plan or request may be amended and resubmitted for approval. If the plan or request is approved, the Governor shall allocate funds to the local workforce investment area within 30 days after such approval.

(3) Reallocation.—If a local workforce investment board and chief elected official do not submit a local plan modification (or other local request for funds specified in guidance under subsection (b)) by the date specified in paragraph (2), or the Governor disapproves a local plan, the amount the local workforce investment area would have been eligible to receive pursuant to the formula under paragraph (1)(B) shall be allocated to local workforce investment areas that receive approval of their local plan modifications or local requests for funds under paragraph (2). Each such local workforce investment area shall receive a share of the total amount available for reallocation under this paragraph, in accord-

1	ance with the area's share of the total amount allo-
2	cated under paragraph (1)(B) to such local work-
3	force investment areas.
4	(f) Use of Funds.—
5	(1) In general.—The funds made available
6	under this section shall be used—
7	(A) to provide summer employment oppor-
8	tunities for low-income youth, with direct link-
9	ages to academic and occupational learning
10	and may be used to provide supportive services.
11	such as transportation or child care, that is
12	necessary to enable the participation of such
13	youth in the opportunities; and
14	(B) to provide year-round employment op-
15	portunities, which may be combined with other
16	activities authorized under section 129 of the
17	Workforce Investment Act of 1998 (29 U.S.C.
18	2854), to low-income youth.
19	(2) Program priorities.—In administering
20	the funds under this section, the local board and
21	chief elected official shall give priority to—
22	(A) identifying employment opportunities
23	that are—

1	(i) in emerging or in-demand occupa-
2	tions in the local workforce investment
3	area; or
4	(ii) in the public or nonprofit sector
5	and meet community needs; and
6	(B) linking participants in year-round em-
7	ployment opportunities to training and edu-
8	cational activities that will provide such partici-
9	pants an industry-recognized certificate or cre-
10	dential (referred to in this title as an "industry-
11	recognized credential").
12	(3) Administration.—Not more than 5 per-
13	cent of the funds allocated to a local workforce in-
14	vestment area under this section may be used for
15	the costs of administration of this section.
16	(4) Performance accountability.—For ac-
17	tivities funded under this section, in lieu of meeting
18	the requirements described in section 136 of the
19	Workforce Investment Act of 1998 (29 U.S.C.
20	2871), States and local workforce investment areas
21	shall provide such reports as the Secretary of Labor
22	may require regarding the performance outcomes de-
23	scribed in section 5104(b)(5).

1 SEC. 5104. GENERAL REQUIREMENTS.

2	(a) Labor Standards and Protections.—Activi-
3	ties provided with funds made available under this title
4	shall be subject to the requirements and restrictions, in-
5	cluding the labor standards, described in section 181 of
6	the Workforce Investment Act of 1998 (29 U.S.C. 2931)
7	and the nondiscrimination provisions of section 188 of
8	such Act (29 U.S.C. 2938), in addition to other applicable
9	Federal laws.
10	(b) Reporting.—The Secretary of Labor may re-
11	quire the reporting of information relating to fiscal, per-
12	formance and other matters that the Secretary determines
13	is necessary to effectively monitor the activities carried out
14	with funds provided under this title. At a minimum, recipi-
15	ents of grants (including recipients of subgrants) under
16	this title shall provide information relating to—
17	(1) the number of individuals participating in
18	activities with funds provided under this title and
19	the number of such individuals who have completed
20	such participation;
21	(2) the expenditures of funds provided under
22	this title;
23	(3) the number of jobs created pursuant to the
24	activities carried out under this title;
25	(4) the demographic characteristics of individ-
26	uals participating in activities under this title; and

1	(5) the performance outcomes for individuals
2	participating in activities under this title, includ-
3	ing—
4	(A) for low-income youth participating in
5	summer employment activities under section
6	5103, performance on indicators consisting of—
7	(i) work readiness skill attainment
8	using an employer validated checklist;
9	(ii) placement in or return to sec-
10	ondary or postsecondary education or
11	training, or entry into unsubsidized em-
12	ployment; and
13	(B) for low-income youth participating in
14	year-round employment activities under section
15	5103, performance on indicators consisting of—
16	(i) placement in or return to postsec-
17	ondary education;
18	(ii) attainment of a secondary school
19	diploma or its recognized equivalent;
20	(iii) attainment of an industry-recog-
21	nized credential; and
22	(iv) entry into, retention in, and earn-
23	ings in, unsubsidized employment.
24	(c) Activities Required To Be Additional.—
25	Funds provided under this title shall only be used for ac-

1	tivities that are in addition to activities that would other-
2	wise be available in the State or local workforce invest-
3	ment area in the absence of such funds.
4	(d) Additional Requirements.—The Secretary of
5	Labor may establish such additional requirements as the
6	Secretary determines may be necessary to ensure fiscal in-
7	tegrity, effective monitoring, and the appropriate and
8	prompt implementation of the activities under this title.
9	(e) Report of Information and Evaluations to
10	CONGRESS AND THE PUBLIC.—The Secretary of Labor
11	shall provide to the appropriate committees of Congress
12	and make available to the public the information reported
13	pursuant to subsection (b).
14	SEC. 5105. VISA SURCHARGE.
15	(a) Collection.—
16	(1) In general.—Subject to paragraph (2),
17	and in addition to any fees otherwise imposed for
18	such visas, the Secretary shall collect a surcharge of
19	\$10 from an employer that submits an application
20	for—
21	(A) an employment-based visa under para-
22	graph (3), (4), (5), or (6) of section 203(b) of
23	the Immigration and Nationality Act (8 U.S.C.
24	1153(b)); and

1	(B) a nonimmigrant visa under subpara-
2	${\rm graph} \ \ ({\rm C}), \ \ ({\rm H})({\rm i})({\rm b}), \ \ ({\rm H})({\rm i})({\rm c}), \ \ ({\rm H})({\rm ii})({\rm a}),$
3	(H)(ii)(B), (O), (P), (R), or (W) of section
4	101(a)(15) of such Act (8 U.S.C. 1101(a)(15)).
5	(2) Expiration.—The Secretary shall suspend
6	the collection of the surcharge authorized under
7	paragraph (1) on the date on which the Secretary
8	has collected a cumulative total of \$1,500,000,000
9	under this subsection.
10	(b) Deposit.—All of the amounts collected under
11	subsection $(a)(1)$ shall be deposited in the general fund
12	of the Treasury.
	Passed the Senate June 27, 2013.

Attest:

Secretary.

113TH CONGRESS S. 744

AN ACT

To provide for comprehensive immigration reform and for other purposes.

June 27, 2013

Ordered to be printed as passed