SA 4121. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4122. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4123. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4124. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4125. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4126. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4127. Mr. BYRD (for himself and Mr. GREER) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4128. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4129. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4130. Mr. AKAKA (for himself, Ms. MUKULSKI, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4131. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4132. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4133. Mr. DODD (for himself, Mr. LISZTSER, and Mr. SLEET) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4134. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4135. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4136. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4137. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4138. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4139. Mr. DOMENIC (for himself, Mr. KYL, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4140. Mr. SCHUMER (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4141. Mr. SCHUMER (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.
On page 364, line 22, after "an" insert the following: "aliens who is unlawfully present in the United States, or an alien receiving adjustment of status under section 203(b) of this Act who was illegally present in the United States prior to January 7, 2004, section 601 of this Act, or section 613(c) of this Act, shall not be eligible for the Earned Income Tax Credit. With respect to benefits other than the Earned Income Tax Credit, an alien".

SA 4109. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of title VII, insert the following:

SEC. 766. IMMIGRATION OF RELATIVES OF UNITED STATES CITIZENS.

(a) REPEAL OF EXEMPTION FROM NUMERICAL LIMITATION FOR PARENTS OF CITIZENS.—Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(1) by striking "children, spouses, and parents" and inserting "children and spouses"; and

(2) by striking "States, except that, in the cases of parents, such citizens shall be at least 21 years of age." and inserting "States, except that, in the cases of parents, such citizens shall be at least 21 years of age.";

(b) REPEAL OF PREFERENCE ALLOCATION OF FAMILY-Sponsored IMMIGRANT VISAS FOR THE BROTHERS AND SISTERS OF CITIZENS.—Section 203(a) (8 U.S.C. 1153(a)) is amended by striking paragraph (4).

SA 4110. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title VII, insert the following:

SEC. 767. REMOVAL OF NUMERICAL LIMITATIONS ON IMMIGRANTS WITH ADVANCED DEGREES.

(a) REPEAL OF requirement.—Section 201(e)(1) (8 U.S.C. 1151(e)(1)) is amended—

(1) in subsection (a)(3), by inserting "immigrants with advanced degrees" after "diversity immigrants"; and

(2) by adding at the end the following:

"(B) practices medicine for at least 5 years in a facility that is located in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a medically underserved area (as designated by the Secretary of Health and Human Services)."

SA 4111. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. 768. EXTENSION FROM NUMERICAL LIMITATIONS ON PHYSICIANS PRACTICING IN UNDERSERVED AREAS.

Section 214(c)(5) (8 U.S.C. 1184(c)(5)) is amended—

(1) in subparagraph (B), by striking "or" at the end; and

(2) by adding at the end the following:

"(D) practices medicine for at least 5 years in a facility that is located in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a medically underserved area (as designated by the Secretary of Health and Human Services)."

SA 4114. Mr. GREGG (for himself, Ms. CANTWELL, Mr. ALEXANDER, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. 769. ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet the work force needs and protect the economic security of the United States:

(A) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, education level, field of study, occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2) and

(1) in paragraph (2), by striking "(c)" and inserting "(c)(1)";

(2) by redesigning paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

(B) If the Secretary of State has made a determination under subsection (c)(2) and the number of eligible qualified immigrants who have a degree selected in such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 205(b)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

(C) If the Secretary of State has made a determination under subsection (c)(2) and the number of eligible qualified immigrants who have a degree selected in such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 205(b)(2), the Secretary shall issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B) and

(D) if the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants with degrees selected in such subsection and apply for an immigrant visa described in subsection (c)(2)(B) is less than the worldwide level specified in section 205(b)(2), the Secretary shall issue immigrant visas to eligible qualified immigrants with degrees selected in such subsection...
In GENERAL.—Chapter 1 of title III of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) is amended—

(A) in section 301(a), by inserting “as defined in section 301(a)” after “subject to the jurisdiction thereof”; and

(B) by adding at the end the following new section:

“SEC. 309A. PERSONS BORN TO CITIZENS OR PERMANENT RESIDENT ALIENS.

“(a) For purposes of section 301(a), a person born in the United States is considered to be ‘subject to the jurisdiction of the United States’ only if—

(1) the child was born in wedlock in the United States to a parent who is—

(A) a citizen or national of the United States; or

(B) an alien who is lawfully admitted for permanent residence and maintains his or her residence in the United States; or

(2) the child was born out of wedlock in the United States to a mother who is—

(A) a citizen or national of the United States; or

(B) an alien who is lawfully admitted for permanent residence and maintains her residence in the United States.

(c) For purposes of this section, a child is considered to be ‘born in wedlock’ only if, at the time of such birth—

(1) the child’s parents are married to each other; and

(2) the marriage referred to in paragraph (1) is not a common law marriage.

(7) CITIZENSHIP STATUS AT BIRTH FOR CHILDREN BORN IN THE UNITED STATES.

Sec. 309A. Children born to non-citizens or non-permanent resident aliens.

(8) EFFECTIVE DATE.

The amendments made by subsection (b) shall apply to aliens born on or after the date of enactment of this Act.
of status under any provision from criminal or civil liability under 8 U.S.C. 1325(b)(1). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(a)(1)(A)(v)(I).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1325(b)(1).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 611.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1324(c)(3).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1324(a)(5).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 42 U.S.C. 408(a)(7)(A).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 42 U.S.C. 408(a)(7)(C).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1621.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 611.

SA 4120. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, between lines 16 and 17, insert the following:

SEC. 5. EFFECTIVENESS OF CERTAIN PROVISIONS; REPORT ON COST ESTIMATE BY THE CONGRESSIONAL BUDGET OFFICE.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(a)(1). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1324(c)(1).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(a)(2).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(a)(3). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(a)(5). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 42 U.S.C. 408(a)(7)(A). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 42 U.S.C. 408(a)(7)(C). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1621.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 611.

SA 4121. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, between lines 16 and 17, insert the following:

(b) ASSISTANCE TO LAW ENFORCEMENT.—Notwithstanding any other provision of law, a member of the National Guard providing assistance under this section may participate in a search, seizure, or similar activity, as follows:

On page 7, between lines 16 and 17, insert the following:

Sec. 133(h) is amended to read as follows:

"(h) ASSISTANCE TO LAW ENFORCEMENT.—Notwithstanding any other provision of law, a member of the National Guard providing assistance under this section may participate in a search, seizure, or similar activity, in order to detain an individual until law enforcement personnel can assume custody of such individual."

SA 4122. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 249, strike lines 16 through 20, and insert the following:

Notwithstanding any other provision of this Act, in the case of any provision of this Act (including an amendment made by such provision) that grants change of legal status, or adjustment of current status, of an individual, the Director determines to be feasible and appropriate, that individuals who are found by an authorized Federal agency to be unlawfully present in the United States are not counted in tabulating population for purposes of apportionment of Representatives to Congress among the several States, and any methods and procedures that the Director determines to be feasible and appropriate, to ensure that individuals who are found by an authorized Federal agency to be unlawfully present in the United States are not counted in tabulating population for purposes of apportionment of Representatives to Congress among the several States.

SA 4123. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1324(a)(1). Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 18 U.S.C. 1324(c)(3).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 8 U.S.C. 1324(c)(5).

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to absolve those granted adjustment of status under any provision from criminal or civil liability under 27 U.S.C. 155.
(B) has been continuously in the United States since that date; and

(C) was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

(2) EMPLOYMENT.—An alien must establish that the alien—

(A) has been employed in the United States in the aggregate, for at least 3 years during the 5-year period ending on April 5, 2006; and

(B) has been employed in the United States on that date.

(3) ADMISSIBILITY.—

(A) IN GENERAL.—The alien must establish that the alien—

(i) is admissible to the United States (except as provided in subparagraph (B)); and

(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

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

(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of this section 212(a), or a ground of inadmissibility under paragraph (4), as applied to individual aliens if—

(i) for humanitarian purposes; or

(ii) to assure family unity; or

(iii) if such waiver is otherwise in the public interest.

(4) GROUNDS FOR INELIGIBILITY.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), an alien is ineligible for Deferred Mandatory Departure status if—

(i) the alien has been ordered removed from the United States; or

(ii) for overstay the period of authorized admission under section 217; or

(iii) under section 235 or 236; or

(iv) pursuant to a final order of removal under section 240.

(B) the alien failed to depart the United States during the period of a voluntary departure order under section 240B; or

(C) the alien is subject to section 241(a)(5).

(iv) the alien fails to comply with any request for information by the Secretary of Homeland Security;

(v) the Secretary of Homeland Security determines that—

(A) the alien has been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

(B) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

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

(D) the alien has been convicted of a felony or 3 or more misdemeanors.

(B) EXCEPTION.—Notwithstanding clauses (i) and (ii) of subparagraph (A), an alien who has been convicted of an offense removed from the United States shall remain eligible for Deferred Mandatory Departure status if the alien's ineligibility under such clauses is solely related to the alien's—

(i) entry into the United States without inspection;

(ii) remaining in the United States beyond the period of authorized admission; or

(iii) failure to maintain legal status while in the United States.

(C) WAIVER.—The Secretary of Homeland Security, in the exercise of the Secretary's sole and unreviewable discretion, waive the applicability of clauses (i) and (ii) of subparagraph (A) if the alien was ordered removed on the basis that the alien—

(i) entered the United States without inspection;

(ii) failed to maintain legal status while in the United States; or

(iii) was ordered removed under section 212(a)(6)(C)(i) prior to April 7, 2006; and

(iv) did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 238(a).

(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

(iii) the alien would not depart the United States because it would result in extreme hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(6) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo an appropriate medical examination (including a determination of immigration status) that conforms to generally accepted professional standards of medical practice.

(7) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

(A) if the Secretary determines that the alien was not eligible for such status; or

(B) if the alien is ineligible for Deferred Mandatory Departure status.

(8) SUBSEQUENT APPLICATIONS.—

(A) APPLICATION FORM.—The Secretary of Homeland Security shall establish a form for the application for Deferred Mandatory Departure status under section 2006. An alien that fails to comply with the application form completes an application for Deferred Mandatory Departure status.

(B) CONTENT.—In addition to any other information that the Secretary determines is required, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary granting of Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review, appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 230 or 241(b)(8), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

(E) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary shall inter view an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin acceptance of applications for Deferred Mandatory Departure status not later than 3 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

(3) APPLICATION.—An alien shall submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

(5) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits an accurate application in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

(6) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

(A) an acknowledgment made in writing and under oath that the alien—

(i) is unlawfully present in the United States and departs or is deported, as appropriate, under this Act; and

(ii) understands the terms of Deferred Mandatory Departure;

(iii) any Social Security account number or card in the possession of the alien or relied upon by the alien; and

(iv) any false or fraudulent documents in the alien's possession;

(7) MANDATORY DEPARTURE.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in its sole and unre viewable discretion, grant Deferred Mandatory Departure status to an alien for a period not to exceed 5 years.

(B) REGISTRATION.—An alien granted Deferred Mandatory Departure status—

(A) depart the United States before the expiration of the period of Deferred Mandatory Departure status;

(B) register with the Secretary of Homeland Security at the time of departure; and

(C) surrender any evidence of Deferred Mandatory Departure status at time of departure.

(C) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and departs before the expiration of such status—

(A) shall not be subject to section 212(a)(3)(B); and

(B) may immediately seek admission as a nonimmigrant or immigrant, if otherwise eligible.

(10) FAILURE TO DEPART.—An alien who fails to depart the United States before the expiration of Deferred Mandatory Departure status is not eligible and may not apply for any immigration relief or benefit under this Act or any other law for a period of 10 years, except as provided under section
DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure being granted Deferred Mandatory Departure status; and
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SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000,000 for facilities, personnel (including construction, training, technology, and processing necessary to carry out this title and the amendments made by this title. [25x20]

SA 4126. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In applicable place:

Resolved, That it is the Sense of the Senate—

(1) That the national security of the United States depends on an immigration policy, the first step of which, is to secure our borders and to control the flow of illegal immigration;

(2) That our national immigration policy must demand accountability from those who hire illegal workers by creating a national employee verification system that employers would be required to use to verify the legal status of their employees and imposing severe penalties for employers who hire illegal workers;

(3) That Congress must be able to confirm the American public that the borders are secured and an employment verification system is in place before determining the final status of those persons who are not currently lawfully in the United States;

(4) That any temporary worker program enacted by Congress should contain both positive and negative consequences for objectionable conduct;

(5) That temporary worker status should be extended to reward continuous employment, English fluency, and private health insurance coverage;

(6) That temporary worker status should not be given to people who are not working full time; who have committed a crime or may present a danger to American citizens or legal immigrants; or who go on, or are likely to go on, public assistance or any other government program; and

(7) That America should fully recognize and appreciate America is a nation of immigrants, but also a nation of laws, and that the American people should welcome those who want to enter the country legally, learn English, maintain employment, pay taxes and contribute to our communities.

SA 4127. Mr. BYRD (for himself and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

(1) That the American people should welcome the children of a citizen of the United States at the time of application for lawful permanent resident status;

(2) That the parent of a child who is a citizen of the United States;

(3) Is not younger than 65 years of age;

(4) Is not older than 16 years of age and is attending school in the United States;

(5) Is younger than 5 years of age;

(6) On removal from the United States, would suffer long-term endangerment to the life of the alien; or

(7) Owns a business or real property in the United States.

SA 4128. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Resolved, That it is the Sense of the Senate—

(1) That the national security of the United States depends on an immigration reform that follows through page 577, line 25, and into section (a) the same right to, and procedures for, administrative review as are provided to—

(1) Applicants for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) Aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SEC. 455. SUPPLEMENTAL IMMIGRATION FEE.

There are authorized to be appropriated $1,000,000,000 for facilities, personnel (including construction, training, technology, and processing necessary to carry out this title and the amendments made by this title. [25x20]

SA 4129. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Resolved, That it is the Sense of the Senate—

(1) That the national security of the United States depends on an immigration reform that follows through page 577, line 25, and into section (a) the same right to, and procedures for, administrative review as are provided to—

(1) Applicants for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) Aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SEC. 743. CANCELLATION FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.

(a) In General.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b), the Secretary shall, under such section 240A, cancel the removal of, and adjust the status of an alien lawfully admitted for permanent residence, an alien—

(1) Who was, on September 10, 2001, the spouse, child, dependent, or parent of an alien who died as a direct result of a specified terrorist activity.

(b) Eligibility for Cancellation of Removal.—The benefits provided by subsection (a) shall apply to any alien who—

(1) Was, on September 10, 2001, the spouse, child, dependent, or parent of an alien who died as a direct result of a specified terrorist activity.

(c) Stay of Removal; Work Authorization.—The Secretary shall provide to aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a), the same right to, and procedures for, administrative review as are provided to—

(1) Applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) Aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SA 4130. Mr. AKAKA (for himself, Ms. MUKLEJIT, Mr. SPECTER) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Resolved, That it is the Sense of the Senate—

(1) That the national security of the United States depends on an immigration reform that follows through page 577, line 25, and into section (a) the same right to, and procedures for, administrative review as are provided to—

(1) Applicants for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) Aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SEC. . DESIGNATION OF PROGRAM COUNTRIES.

Section 212(c)(1) (8 U.S.C. 1187(c)(1)) is amended by adding the following:—

(1) That the American public should welcome the children of a citizen of the United States at the time of application for lawful permanent resident status;

(2) That the parent of a child who is a citizen of the United States;

(3) That the American people should welcome the children of a citizen of the United States at the time of application for lawful permanent resident status;

(4) That the American people should welcome the children of a citizen of the United States at the time of application for lawful permanent resident status;

(5) That the American people should welcome the children of a citizen of the United States at the time of application for lawful permanent resident status;
201, 202, or 203 before the date of enactment of all applications filed under section 245B or section 245C of the Immigration and Nationality Act, may not exceed $650,000 during any fiscal year.

(2) Construction.—Nothing in this paragraph may be construed to modify the requirement set out in section 245(a)(1) or 245(c)(1), that an alien file an adjustment of status to lie on the table; as follows:

SA 4132. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 249, strike lines 7 and 8, and insert the following:

(3) to study the impact of numerical limitations on employment-based visas issued under the Immigration and Nationality Act, as amended by section 501(b), on the wages, working conditions, and employment of United States workers, and to make recommendations to the Secretary of Labor regarding any need to modify such numerical limitations.

SA 4133. Mr. Dodd (for himself, Mr. LUGAR, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following new section

Sec. . Consultation Requirement. Consultation with the United States and Mexican authorities at the federal, state, and local levels concerning the construction of additional fencing and related border security structures along the United States-Mexico border, provided for elsewhere in this Act, shall be undertaken prior to commencing any new construction, in order to solicit input from affected communities; lessen tensions and foster greater understanding and stronger cooperation on this and other important security issues of mutual concern.

SA 4134. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 249, strike lines 16 through 20, and insert the following:

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date that is 18 months after the date that a total of $300,000,000 has been appropriated and made available to the Secretary to implement the Electronic Employment Verification System established under 274A(d) of the Immigration and Nationality Act, as amended by section 301(a), such amendment shall apply to aliens, who, on such effective date, are outside of the United States.

SA 4135. Mr. Sessions submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 364, line 22, after “an” insert the following:

‘‘(ii) Limitation.—Provided further that an alien required to pay taxes under this subparagraph, or who otherwise satisfies the requirements of paragraph (1), shall not be allowed to collect any tax refund for any taxable year prior to 2006, or to file any claim for the Earned Income Tax Credit, or any other tax credit otherwise allowable under the tax code, prior to such taxable year.”

SA 4138. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 5 and 6, insert the following:

(c) Northern Border Training Facility Feasibility Study.

(1) In general.—The Comptroller General of the United States, in consultation with the Secretary, shall conduct a study to examine the feasibility of establishing a northern border training facility at Rainy River Community College in International Falls, Minnesota to carry out the training programs described in this subsection.

(2) Use of training facility.—The training facility should be designed to allow the Secretary to conduct a variety of supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) Training curriculum.—The training curriculum, as determined by the Secretary, will be offered at the training facility through multi-day training programs involving classroom and real-world applications, and would include training in—

(i) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(1) firearms and weapons;

(2) self defense;

(3) search and seizure;

(4) defensive and high speed driving;

(5) mobility training;

(6) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(7) safety issues related to biological and chemical hazards;

(ii) technology upgrades and integration; and

(iii) matters relating directly to terrorist threats and issues, including—

(1) profiling;

(2) changing tactics;

(3) language;

(4) culture; and

(5) communications.

SA 4139. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:


(a) Findings.—Congress finds that—

(1) it is desirable to educate new immigrants about American civic rights and duties;

(2) fostering civic dialogue between new immigrants and American citizens will help to bring new immigrants into the fabric of the communities in which they live;

(3) for over 15 years, the Public Achievement Program at the University of Minnesota has given people the opportunity to be producers and creators of their communities;
At the appropriate place, insert the following:

SEC. 425. WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY OR REMOVAL BASED ON HARDSHIP TO CITIZEN OR PERMANENT RESIDENT ALIEN SPOUSE, PARENT, OR CHILD.

(a) WAIVER.—Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of Homeland Security (in the sole and unreviewable discretion of the Attorney General) shall, on his own initiative or in response to a petition on behalf of an alien, waive any ground of inadmissibility or removal of an alien if the Secretary determines that such waiver is necessary to avoid extreme hardship to a spouse, parent, or child of such alien who is a citizen or an alien lawfully admitted for permanent residence.

(b) EXTENSION TO THREATENED IMMIGRANTS.—No waiver may be made under subsection (a) under or arising from an amendment referred to in that subsection with respect to a ground of inadmissibility or removal under a provision of law as follows:

(1) Section 212(a)(3) of the Immigration and Nationality Act.

(2) Section 237(a)(4) of the Immigration and Nationality Act.

SA 4143. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 107, strike lines 15 through 18 and insert the following:

"(4) DURATION OF OFFENSE.—

(A) IN GENERAL.—An offense under this subsection shall continue until the alien is discovered within the United States by an immigration officer.

(B) APPLICABILITY.—Subparagraph (A) shall apply to an offense committed before the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

SA 4144. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 265, between lines 7 and 8, insert the following:

"(B) REQUIRED PROCEDURE.—

(1) EFFORTS TO RECRUIT UNITED STATES WORKERS.—During the period beginning not later than 90 days prior to the date on which a petition is filed under subsection (a)(1), and continuing thereafter until the date on which the petition is filed, the employer shall make a good faith effort to recruit United States workers for the position for which the alien is sought.

(2) NATIONAL EMPLOYMENT SERVICE.—During the period beginning not later than 90 days prior to the date on which a petition is filed under subsection (a)(1), and continuing thereafter until the date on which the petition is filed, in addition to the efforts described in paragraph (1), the employer shall refer the position to the National Employment Service.

(3) NOTICE TO JOB BANKS.—During the period beginning not later than 90 days prior to the date on which a petition is filed under subsection (a)(1), and continuing thereafter until the date on which the petition is filed, in addition to the efforts described in paragraphs (1) and (2), the employer shall place the position in the Job Bank established or maintained under section 9106 of the Federal-State Unemployment Compensation Act.
were not hired for the job the employer seeks to fill with a nonimmigrant worker; and

“(c) certify that there are not sufficient United States workers who are able, willing, qualified, and available at the time of the filing of the application.”.

SA 4145. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 575, strike lines 22 through 24.

SA 4146. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 5 and 6, insert the following:

Subtitle B—Preservation of Immigration Benefits for Hurricane Katrina Victims

SEC. 510. SHORT TITLE.

This subtitle may be cited as the “Hurricane Katrina Victims Immigration Benefits Preservation Act.”

SEC. 511. DEFINITIONS.

In this subtitle:

(1) APPLICATION OF DEFINITIONS FROM THE IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this subtitle, the definitions in the Immigration and Nationality Act shall apply in the administration of this subtitle.

(2) DIRECT RESULT OF A SPECIFIED HURRICANE DISASTER.—The term “direct result of a specified hurricane disaster”—

(A) means physical damage, disruption of commerce, communications or transportation, forced or voluntary evacuation, business closures, or other circumstances directly caused by Hurricane Katrina (on or after August 26, 2005) or Hurricane Rita (on or after September 21, 2005); and

(B) does not include collateral or consequential economic effects in or on the United States economies.

SEC. 512. SPECIAL IMMIGRANT STATUS.

(a) Provision of Status.—

(1) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary may provide an alien described in this subsection with a special immigrant status designated “Hurricane Katrina Victims Preserved Status.”

(b) ALIENS DESCRIBED.—

(i) ALIENS WITH SPECIFIED RELATIONSHIP TO DECEASED.—An alien is described in paragraph (1) if the alien was the spouse or child of—

(A) the alien described in this paragraph if the alien, as of August 26, 2005, was the spouse or child of a principal alien described in paragraph (1); or

(B) the alien described in this subsection if the alien, as of August 26, 2005, was the spouse or child of the alien described in paragraph (1); or

(ii) ALIENS WITH SPECIFIED RELATIONSHIP TO PREVENTED OR FORCED DEPARTURE.—An alien is described in paragraph (1) if the alien was the spouse or child of—

(A) the alien, as of August 26, 2005, was the spouse or child of a principal alien described in paragraph (1); or

(B) the alien described in this subsection if the alien, as of August 26, 2005, was the spouse or child of the alien described in paragraph (1); or

(ii) ALIENS WITH SPECIFIED RELATIONSHIP TO PARENTAL DEATH.—An alien is described in paragraph (1) if the alien was the parent of—

(A) the alien described in this paragraph if the alien, as of August 26, 2005, was the parent of a principal alien described in paragraph (1); or

(B) the alien described in this subsection if the alien, as of August 26, 2005, was the parent of the alien described in paragraph (1).

(c) ELIGIBILITY REQUIREMENTS.—

(1) ELIGIBILITY.—An alien is eligible for the special immigrant status provided under this paragraph if the alien—

(A) was admitted as a nonimmigrant under section 214 of the Immigration and Nationality Act (8 U.S.C. 1153) or was eligible to enter the United States as a nonimmigrant under section 214 of the Immigration and Nationality Act (8 U.S.C. 1153) on or before August 26, 2005; or

(ii) an alien who died as a direct result of a specified hurricane disaster.

(2) AUTHORIZED EMPLOYMENT.—

(a) IN GENERAL.—An alien described in subsection (a) or (b) shall have authority to work in the United States without regard to any other immigration status or authorization of employment currently held or other appropriate document signifying authorization of employment. For purposes of this paragraph, an alien’s employment authorization shall be considered to specify a principal alien described in paragraph (1) who was lawfully present in the United States as a nonimmigrant on August 26, 2005, provided an employment authorization issued to the alien is based on an application filed on or before August 26, 2005, and referencing the terms “accompanying” and “following to join” in subsection (a)(1)(D), the alien may maintain that priority date.

(b) DEPENDENTS.—

(i) ALIENS DESCRIBED.—An alien is described in paragraph (1) if the alien—

(A) is accompanying such principal alien; or

(ii) is following to join such principal alien not later than 24 months after the principal alien’s admission.

(c) PRIORITY DATE.—

(1) IN GENERAL.—Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Secretary under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

(2) NUMERICAL LIMITATIONS.—In applying sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, eligible aliens described in this section shall be treated as special immigrants who are not described in subparagraph (A) or (B) of section 201(a)(27) of such Act (8 U.S.C. 1101(a)(27)).

SEC. 514. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NON-IMMIGRANT STATUS.—

(1) IN GENERAL.—Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1154), an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on August 26, 2005 and was prevented from timely depart the United States as a direct result of a specified hurricane disaster, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on August 26, 2005, and ending on the date of the alien’s departure, if such departure occurred on or before February 28, 2006.

(b) PERIODS INCLUDED.—

(1) MANDATORY EVACUATION PERIOD.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) transportation closures or delays; or

(iii) other closures, cancellations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(iv) mandatory evacuation and relocation;

(v) other circumstances, including medical problems or financial hardship.

(b) DETENTION PERIOD.—

(1) MANDATORY EVACUATION PERIOD.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) transportation closures or delays; or

(iii) other closures, cancellations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(iv) mandatory evacuation and relocation;

(v) other circumstances, including medical problems or financial hardship.

(c) DIVERSITY IMMIGRANTS.—Section 203(a)(1)(B)(iii) (8 U.S.C. 1154a(a)(1)(B)(iii)), is amended to read as follows:

“(II) An immigrant visa made available under subsection (b)(3) for fiscal year 1998, or for a subsequent fiscal year, may be issued, to an eligible qualified alien who—

(i) was lawfully present in the United States as a nonimmigrant on August 26, 2005, was prevented from timely depart the United States as a direct result of a specified hurricane disaster, and

(ii) was the beneficiary of the ‘fiscal year for which the alien was selected’.”.

(d) EXTENSION OF FILING PERIOD.—If an alien is unable to timely file an application to register or reregister for Temporary Protected Status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) on or before August 26, 2005, the alien is described in this paragraph if the alien was, as of August 26, 2005, a citizen or national of the United States or of a country with which the United States has a treaty of amity and commerce and the laws of which provided for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 575, strike lines 22 through 24.
as a direct result of a specified hurricane disaster, the alien’s application may be considered timely filed if it is filed not later than 90 days after it otherwise would have been due.

(e) Voluntary Departure.—

(1) In General.—Notwithstanding section 240b(c) of the Immigration and Nationality Act (8 U.S.C. 1229c), if a period for voluntary departure under such section expired during the period beginning on August 26, 2005, and ending on August 25, 2006, the alien was unable to voluntarily depart before the expiration date as a direct result of a specified hurricane disaster, such voluntary departure may be deemed extended for an additional 60 days.

(2) Circumstances Preventing Departure.—For purposes of this subsection, circumstances preventing an alien from voluntarily departing the United States are—

(A) office closures;

(B) transportation cessations or delays;

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(D) mandatory evacuation and removal; and

(E) other circumstances, including medical problems or financial hardship.

(3) Current Nonimmigrant Visa Holders.—

(1) In General.—An alien who was lawfully present in the United States on August 26, 2005, and was a nonimmigrant under section 214(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) and lost employment as a direct result of a specified hurricane disaster may accept new employment upon the fitting by a prospective employer of a new petition on behalf of such nonimmigrant not later than August 26, 2006.

(2) Employment Authorization.—Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such employment shall cease.

(3) Savings Provision.—Nothing in this subsection shall be construed to limit eligibility for portability under section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)).

SEC. 515. HUMANITARIAN RELIEF FOR CERTAIN IMMIGRANTS AND CHILDREN.

(a) Treatment as Immediate Relative.—

(1) Spouses.—Notwithstanding the second sentence of section 201(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen died as a direct result of a specified hurricane disaster (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative of the citizen under section 201(b)(3)(A) of such Act (8 U.S.C. 1151(b)(3)(A)) to the extent to which the Secretary determines necessary or appropriate to respond to national emergencies or disasters.

(b) Children.—

(1) In General.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen’s death (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative of the citizen under section 201(b)(3)(A) of such Act (8 U.S.C. 1151(b)(3)(A)) to remain an immediate relative after the date of the citizen’s death (regardless of subsequent changes in age or marital status), but only if the alien files a petition under subparagraph (B) not later than 2 years after such date.

(2) In General.—If an alien described in subparagraph (A) may file a petition with the Secretary for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), which shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) (b) Spouses, Children, Unmarried Sons and Daughters of Lawful Permanent Resident Aliens.—

(1) In General.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) that was filed by such alien before August 26, 2005, may be considered, if the spouse, child, son, or daughter has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for preference status under such section with the same priority date as the petition filed before the death described in paragraph (3)(A). No new petition shall be required to be filed. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(2) Self-Petitions.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is not a beneficiary of a family for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act may file a petition for such classification with the Secretary, if the spouse, child, son, or daughter was present in the United States on the day before the death described in paragraph (3)(A). Such petition is for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) and lost employment as a direct result of a specified hurricane disaster; and

(b) on the day of such death, was lawfully admitted for permanent residence in the United States.

(c) Applications for Adjustment of Status by Surviving Spouses and Children of Employment-Based Immigrants.—

(1) In General.—Any alien who, on August 26, 2005, the spouse or child of an alien described in paragraph (2), and who applied for adjustment of status before the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) Aliens Described.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(i) an alien admitted as a refugee under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); or

(ii) granted asylum under section 287 of such Act (8 U.S.C. 1180).

(3) Savings Provision.—In determining the admissibility of any alien accorded an immigration benefit under this section the grounds for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

SEC. 516. RECIPIENT OF PUBLIC BENEFITS.

An alien shall not be inadmissible under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) or deportable under section 237(a)(5) of such Act (8 U.S.C. 1227(a)(5)) on the basis that the alien received any public benefit as a direct result of the alien's failure to meet the age requirement occurred as a direct result of a specified hurricane disaster.

SEC. 519. EVIDENTIARY STANDARDS AND REGULATIONS.

(a) In General.—The Secretary may suspend or modify any requirement under section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) or subtitle A of Title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), either generally or with respect to particular persons, class of persons, geographic areas, or economic sectors, to the extent to which it determines necessary or appropriate to respond to national emergencies or disasters.

(b) Notification.—If the Secretary suspends or modifies any requirement under section 274A(b) of the Immigration and Nationality Act pursuant to subsection (a), the Secretary shall send notice of such decision, including the reasons for the suspension or modification, to—

(1) the Committee on the Judiciary of the Senate; and

(2) the Committee of the Judiciary of the House of Representatives.

(c) The alien authority under subsection (a) shall expire on August 26, 2008.

SEC. 520. DISCRETIONARY AUTHORITY.

The Secretary may, with respect to applicants for naturalization in any district of the United States Citizenship and Immigration Services affected by a specified hurricane disaster, administer the provisions of Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) notwithstanding any provision of such title relating to the jurisdiction of an eligible court to administer the provisions of such title, the jurisdiction of an eligible court, other than the court of jurisdiction of an eligible court of naturalization in any district of the United States to which it is referred, or any action to be taken in any specified district or State within the United States.

SEC. 521. EVIDENTIARY STANDARDS AND REGULATIONS.

The Secretary shall establish appropriate evidentiary standards for demonstrating, for
purposes of this subtitle, that a specified hurricane disaster directly resulted in—
(1) death;
(2) disability; or
(3) loss of employment due to physical damage to, or destruction of, a business.

SEC. 522. IDENTIFICATION DOCUMENTS. (a) TEMPORARY IDENTIFICATION.—The Secretary shall have the authority to require any Federal agency to issue temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identification documents under this section after January 1, 2006.

(c) NO COMPULSION TO ACCEPT OR CARRY IDENTIFICATION DOCUMENTS.—Nationals of the United States shall not be compelled to accept or carry documents issued under this section.

(d) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 523. WAIVER OF REGULATIONS. The Secretary may waive any provision of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. The Secretary shall have the authority to instruct any Federal agency to issue and make available temporary identification documents to individuals affected by a specified hurricane disaster.

SEC. 524. NOTICES OF CHANGE OF ADDRESS. If an alien has more than one address otherwise required to be submitted to the Secretary by an alien described in subsection (b) relates to a change of address occurring during the period beginning on August 26, 2005, and ending on the date of the enactment of this Act, the alien may submit such notice.

SEC. 525. FOREIGN STUDENTS AND EXCHANGE PROGRAM PARTICIPANTS. (a) IN GENERAL.—The nonimmigrant status of an alien described in subsection (b) shall be deemed to have been maintained during the period beginning on August 26, 2005, and ending on September 15, 2006, unless the alien failed to satisfy the terms and conditions of the alien’s nonimmigrant status on August 26, 2005.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—
(1) resided, on August 26, 2005, within a district affected by a specified hurricane disaster; and
(2) is required, under section 265 of the Immigration and Nationality Act (8 U.S.C. 1255a) or any other provision of law, to notify the Secretary in writing of a change of address.

SEC. 526. FREEBIE IMMUNITY AND IDEOLOGY OF ADDRESS.

(a) IN GENERAL.—If a notice of change of address otherwise required to be submitted to the Secretary by an alien described in subsection (b) relates to a change of address occurring during the period beginning on August 26, 2005, and ending on the date of the enactment of this Act, the alien may submit such notice.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—
(1) resided, on August 26, 2005, within a district affected by a specified hurricane disaster; and
(2) is required, under section 265 of the Immigration and Nationality Act (8 U.S.C. 1255a) or any other provision of law, to notify the Secretary in writing of a change of address.

SEC. 527. WAIVER OF ADVISORY SERVICES. The Secretary may waive any provision of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this title. The Secretary shall have the authority to instruct any Federal agency to issue and make available temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identification documents under this section after January 1, 2006.

(c) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 528. WAIVER OF REGULATIONS. The Secretary may waive any provision of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. The Secretary shall have the authority to instruct any Federal agency to issue and make available temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identification documents under this section after January 1, 2006.

(c) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 529. WAIVER OF ADVISORY SERVICES. The Secretary may waive any provision of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. The Secretary shall have the authority to instruct any Federal agency to issue and make available temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identification documents under this section after January 1, 2006.

(c) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 530. WAIVER OF ADVISORY SERVICES. The Secretary may waive any provision of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. The Secretary shall have the authority to instruct any Federal agency to issue and make available temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identification documents under this section after January 1, 2006.

(c) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 531. FEDERAL SECURITY TACTIC ELIGIBILITY VERIFICATION SYSTEM. (a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by adding at the end the following:

(7) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

(A) IN GENERAL.—The Secretary of Homeland Security shall establish and administer a verification system, known as the Employment Eligibility Verification System, through which the Secretary—

(1) responds to inquiries made by persons at any time through a toll-free telephone number established for the purpose of providing an individual’s identity and whether the individual is authorized to be employed; and

(2) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to requestors as evidence of their compliance with the requirements of this subsection.

(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual’s identity and work authorization within 3 working days of the initial inquiry. If providing verification or tentative nonverification, the verification system shall provide an appropriate code indicating such verification or such nonverification.

(C) SECONDARY VERIFICATION PROCESS IN CASE OF REVERSE TENTATIVE VERIFICATION.—In cases of tentative nonverification, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification that will confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the date of the tentative notification. When final verification or nonverification is provided, the verification system shall provide an appropriate code indicating such verification or nonverification.

(D) DESIGN AND OPERATION OF SYSTEM.—The verification system shall be designed to achieve—

(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

(ii) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(iii) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(iv) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on personal origin or citizenship status, including—

(I) the selective or unauthorized use of the system to verify eligibility;

(II) the use of the system prior to an offer of employment; or

(III) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security and any designee of the Secretary selected to establish and administer the verification system, shall establish a reliable, secure method, which is within the time periods specified under paragraphs (B) and (C), compares the name and social security account number provided in an inquiry against the information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual’s identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such verification or nonverification) exchanged under such method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and social security account number provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.
“(ii) When a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number, the Secretary of Homeland Security shall conduct an investigation, within the time periods specified in subparagraphs (B) and (C), in that no fraudulent use of a social security account number has taken place. If the Secretary has selected a designee or designees to administer a secondary verification process described in subparagraph (2)(A), the designee shall notify the Secretary when a single employer has submitted to the verification system pursuant to such paragraph the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number. The designee shall also provide the Secretary with information including the name and address of the employer or employers who submitted the relevant social security account number, the relevant social security account number, the relevant name and address of the employee submitted by the employer or employers, and the relevant name and date of birth of the employee submitted by the employer or employers.

“(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their respective systems in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is bureaucratically or administratively impossible to update the information.

“(H) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this subsection for any purpose other than the administration or enforcement of the immigration laws, the Social Security Act, or any provision of Federal criminal law.

“(I) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only under this subparagraph.

“(J) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment verification mechanism established under this paragraph.

“(b) REPEAL OF PROVISION RELATING TO EVALUATIONS AND CHANGES IN EMPLOYMENT VERIFICATION.—Section 274A(d) (8 U.S.C. 1324a(d)) is repealed.

“(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

"SEC. 312. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) In General.—444 Sec. 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting “(A)” after “DEFENSE.—”, and by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN VERIFICATION.—If an individual claims to have been issued such a number, and, if the individual does not attest to United States citizenship under paragraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (I).

“(C) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (B)(ii), the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make additional inquiries under the mechanism in the subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

“(D) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this subsection for any purpose other than the administration or enforcement of the immigration laws, the Social Security Act, or any provision of Federal criminal law.

“(E) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only under this subparagraph.

“(F) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment verification mechanism established under this paragraph.

“(G) REPEAL OF PROVISION RELATING TO EVALUATIONS AND CHANGES IN EMPLOYMENT VERIFICATION.—Section 274A(d) (8 U.S.C. 1324a(d)) is repealed.

“(h) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

"(2) in subsection (b)(1) to read as follows:

“(A) IN GENERAL.—If the person or entity to solicit the production of a social security account number has been issued such a number, and, if the individual does not attest to United States citizenship under paragraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (I).

“(B) FAILURE TO SEEK AND OBTAIN VERIFICATION.—If an individual claims to have been issued such a number, and, if the individual does not attest to United States citizenship under paragraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (I).

“(C) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (B)(ii), the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make additional inquiries under the mechanism in the subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

“(D) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this subsection for any purpose other than the administration or enforcement of the immigration laws, the Social Security Act, or any provision of Federal criminal law.

“(E) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only under this subparagraph.

“(F) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment verification mechanism established under this paragraph.

“(G) REPEAL OF PROVISION RELATING TO EVALUATIONS AND CHANGES IN EMPLOYMENT VERIFICATION.—Section 274A(d) (8 U.S.C. 1324a(d)) is repealed.

“(h) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

"(i) Verification Received.—If the person or other entity receives an appropriate verification of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final verification of such identity and work eligibility; and

“(ii) Tentative Nonverification Received.—If the person or other entity receives a tentative nonverification of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall so...
inform the individual for whom the verification is sought. If the individual does not contest the nonverification within the time period specified, the nonverification shall be determined final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a tentative nonverification. If the individual does not contest the nonverification, the individual shall utilize the process for secondary verification provided under paragraph (7). The nonverification shall remain tentative until a final verification or nonverification is provided by the verification system within the time period specified. If no such case shall arise, the employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility conformed to the verification system and a nonverification becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(‘‘iii) Final Verification or Nonverification Received.—If a final verification or nonverification is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a verification or nonverification of identity and work eligibility of the individual.

(iv) Extension of Time.—If the person or other entity in good faith attempts to make an inquiry, as provided in paragraph (7), and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system has registered that not all inquiries were received during the time at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day, and the verification system does not have to provide any additional proof concerning such inquiry.

(v) Consequences of Nonverification.

(‘‘i) Termination or Notification of Continued Employment.—If the person or other entity has received a final nonverification regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system in such other manner as the Secretary may specify.

(‘‘ii) Failure to Notify.—If the person or entity fails to provide notice with respect to an individual as required under subclause (i), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

(vi) Reduction in Employment After Final Nonverification.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonverification, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A):

(b) by amending paragraph (4) of subsection (b) to read as follows:

(‘‘iv) Copying and Record Keeping of Documentation Required.—

(‘‘A) Legal Documentation.

(‘‘A) Civil and Criminal Penalties.—

Section 274a(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) is amended—

(1) by striking ‘‘imposing’’, and inserting a dash and ‘‘(A) imposing’’;

(2) by striking the period at the end of ‘‘(A)’’; and

(3) by adding at the end the following:

‘‘(B) Requiring as a condition of continuing, continuing, or expanding a business that a business entity shall provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

(ii) take other steps that facilitate the employment of day laborers by others.’’.

Sec. 315. Basic Pilot Program.

Section 4(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following:

‘‘(7) Protection of Right to Report.—Notwithstanding any other provision of law, the rights protected by this subsection include the right of any individual to report a violation or suspected violation of any immigration law to the Secretary of Homeland Security or a law enforcement agency.’’.

Sec. 317. Penalties.

Section 287 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) by striking ‘‘at the end of the 11-year period beginning’’; and

(2) by striking ‘‘the Secretary of’’.

Sec. 274a(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(4)) is amended to read as follows:

(‘‘A) Knowingly hiring unauthorized aliens.—Any person or entity that violates subsection (a) (1), (2), or (3) shall—

(i) in the case of a first offense, be fined $10,000 for each unauthorized alien;

(ii) in the case of a second offense, be fined $50,000 for each unauthorized alien; and

(iii) in the case of a third or subsequent offense, be fined in accordance with title 18, United States Code, imprisoned not less than 1 year but not more than 5 years, and be fined not more than $250,000; and

(B) Continuing Employment of Unauthorized Aliens.—Any person or entity that
violates subsection (a)(2) shall be fined in accordance with title 18, United States Code, imprisoned not less than 1 year and not more than 3 years, or both.”.

(b) PAPERWORK OR VERIFICATION VIOLATIONS.—Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

“(5) PAPERWORK OR VERIFICATION VIOLATIONS.—Any person or entity that violates subsection (a)(1)(B) shall—

“(A) impose a civil penalty of $50,000 for each violation; and

“(B) in the case of a third or subsequent violation, impose a civil penalty of $500,000 for each violation; and

“(C) in the case of a third and subsequent violation, impose a civil penalty of $10,000 for each such violation.”.

(c) GOVERNMENT CONTRACTS.—Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

“(10) GOVERNMENT CONTRACTS.—

“(A) EMPLOYER.—

“(i) In General.—If the Secretary of Homeland Security determines that a person or entity that employs an alien is a repeat violator of this section or is convicted of a crime under this section, such person or entity shall be debarred from the receipt of a Federal contract for a period of 2 years.

“(ii) Duration or Scope of Debarment.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this paragraph shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

“(B) APPLICABILITY.—The provisions of this paragraph shall apply to any Federal contract, grant, or cooperative agreement that is effective on or after the date of the enactment of the Employment Security Act of 2006.”.

(d) CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS.—Section 274A(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(f)(1)) is amended to read as follows:

“(1) CRIMINAL PENALTY.—Any person or entity engages in a pattern or practice of violations of subsection (a)(1) or (2) shall be fined not more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisonment not more than 5 years and not more than 5 years, or both, notwithstanding the provisions of any other Federal law relating to fine levels. The amount of the gross proceeds of such violation, and any property traceable to such proceeds, shall be seized and subject to forfeiture under title 18, United States Code.

(e) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—Subsections (b) and (f) of section 274A of the Immigration and Nationality Act are amended by inserting “Attorney General” each place it appears and inserting “Secretary of Homeland Security.”

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

SEC. 321. VERIFICATION RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner’s responsibilities in this title or the amendments made by this title. The Commissioner may obtain information from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to be used for such purposes as are necessary to carry out such responsibilities.

SEC. 322. NOTIFICATION BY COMMISSIONER OF FAILURE TO CORRECT SOCIAL SECURITY INFORMATION.

The Commissioner of Social Security shall promptly notify the Secretary of Homeland Security of the failure of any individual to provide, upon any request of the Commissioner pursuant to section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), evidence necessary, under such section to—

(1) establish the age, citizenship, immigration or work eligibility status of the individual;

(2) establish such individual’s true identity;

(3) determine which (if any) social security account number has previously been assigned to such individual.

SEC. 323. RESTRICTION ON ACCESS AND USE.

Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

“(B) Access to any information contained in the National Verification System established under section 274A(b)(7) of the Immigration and Nationality Act, shall be prohibited for any purpose other than the administration or enforcement of Federal immigration, Social Security, and tax laws, any provision of title 18, United States Code, or any other authority authorized by Federal law relating to the investigation of false statements or fraud by persons incident to the administration or enforcement of Federal immigration, Social Security, or tax laws of the United States.

Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.”.

SEC. 324. SHARING OF INFORMATION WITH THE COMMISSIONER OF INTERNAL REVENUE SERVICE.

Section 205(c)(2)(H) of the Social Security Act (42 U.S.C. 405(c)(2)(H)) is amended to read as follows:

“(H) The Commissioner of Social Security shall share with the Secretary of the Treasury—

“(i) the information obtained by the Commissioner pursuant to subparagraph (B) and to subparagraph (C) for the purpose of administering those sections of the Internal Revenue Code of 1896 and Federal tax laws based on support or residence of children; and

“(ii) information relating to the detection of wages or income from self-employment of unauthorized aliens (as defined by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)), or the investigation of false statements or fraud by persons incident to the administration or enforcement of Federal immigration, Social Security, or tax laws of the United States.

Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.”.

SEC. 325. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

“(B) Upon the issuance of a social security account number under subparagraph (B) to any individual or the issuance of a Social Security card under subparagraph (G) to any individual, the Commissioner of Social Security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual’s application for such number or such card as the Secretary of Homeland Security determines necessary and appropriate for administration of the immigration laws of the United States.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) FORMS AND PROCEDURES.—Section 264(f) of the Immigration and Nationality Act (8 U.S.C. 1320(f)) is amended to read as follows:

“(f) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), the Secretary of Homeland Security, Secretary of Labor and the Attorney General are authorized to require any individual to provide the individual’s own social security account number for purposes of inclusion in any record of the individual maintained by any of such Secretary or the Attorney General, or for inclusion in any application, document, or form provided under or required by the immigration laws.”.
(2) CENTRAL FILE.—Section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Notwithstanding any other provision of law (including section 6105 of the Internal Revenue Code of 1986) earnings are reported on or after January 1, 1997, to the Commissioner of Social Security with any record that is subject to the requirements for verifying the identity of the individual whose earnings are reported on such record, and (ii) the individual whose earnings are reported on such record is not required to produce any other document to verify that individual’s identity as required under section 408(b) of the Internal Revenue Code of 1986. The Commissioner shall not provide the Secretary of the Treasury with any information relating to the earnings of an individual if the Secretary has provided to the Commissioner of Social Security information regarding the individual that is not required to be verified under section 408(b) of the Internal Revenue Code of 1986. The Commissioner shall notify the Secretary of any earnings for which the requirements for verifying the identity of the individual whose earnings are reported on such record are not met. The Commissioner shall maintain records of all earnings that are not reported or are reported in an amount that is not consistent with the information provided to the Commissioner of Social Security with such additional information as the Commissioner requires to verify the identity of the individual whose earnings are reported on such record.

(3) LISTING OF ACCEPTABLE DOCUMENTS.—Section 274a of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding the following new paragraphs:

"(4) LISTING OF ACCEPTABLE DOCUMENTS.—(B) An item of evidence making it unnecessary for an individual to obtain a foreign national identification card, or other foreign identification document issued by the government of a foreign country, unless otherwise mandated by Federal law.

(1) NO-MATCH NOTICE DEFINED.—In this subsection, the term ‘no-match notice’ means a written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W-2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

(2) PROVISION OF INFORMATION.—(A) REQUIREMENT TO PROVIDE.—Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), the Commissioner shall provide the Secretary of the Treasury with any information relating to employers who have received no-match notices and, upon request, data about such matches. The Secretary, in consultation with the Commissioner, may modify these requirements as appropriate to identify those cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.

(3) OTHER AUTHORITIES.—(A) VERIFICATION REQUIREMENT.—The Secretary, in consultation with the Commissioner, is authorized to establish by regulation penalties for failure to comply with this section.

(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary’s authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulations regarding the enforcement of laws otherwise relating to taxation or the Social Security system.

Submission D—Sharing of Information

SEC. 331. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

(A) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF INFORMATION RELATING TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—(A) Upon receipt by the Secretary of the Treasury of a written request, by the Secretary of Homeland Security or Commissioner of Social Security, the Commissioner shall disclose return information to officers and employees of the Department of Homeland Security and the Social Security Administration who are personally and directly engaged in—

"(1) preparation for any judicial or administrative civil or criminal enforcement proceeding against an alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the adjudication of any application for a change in immigration status or other benefit by such alien, or

"(ii) preparation for a civil or criminal enforcement proceeding against a citizen or national of a country participating in the visa waiver program and directly engaged in—

"(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary’s authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulations regarding the enforcement of tax laws otherwise relating to taxation or the Social Security system.

Submission E—Identification Document Integrity

SEC. 331. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

A no-match notice means a written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W-2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

The provisions of paragraph (1) shall not apply to—

(1) inspections of alien applicants for admission to the United States; and

(2) verification of personal identification of persons outside the United States.

The Secretary of Homeland Security shall maintain a regularly updated public listing, compiled in consultation with the Secretary of State, and including sample facsimiles, of all acceptable Federal documents that satisfy the requirements of paragraph (3)(A).

(b) ESTABLISHMENT OF PERSONAL IDENTITY.—Section 274a(c) of the Immigration and Nationality Act (8 U.S.C. 1324a(c)) is amended—

(1) in paragraph (5), by striking ‘or’ at the end;

"(3) OTHER AUTHORITIES.—(A) VERIFICATION REQUIREMENT.—The Secretary, in consultation with the Commissioner, is authorized to establish by regulation penalties for failure to comply with this subsection.

"(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary’s authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulations regarding the enforcement of tax laws otherwise relating to taxation or the Social Security system.

Submission D—Sharing of Information

SEC. 331. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

(A) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF INFORMATION RELATING TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—(A) Upon receipt by the Secretary of the Treasury of a written request, by the Secretary of Homeland Security or Commissioner of Social Security, the Commissioner shall disclose return information to officers and employees of the Department of Homeland Security and the Social Security Administration who are personally and directly engaged in—

"(1) preparation for any judicial or administrative civil or criminal enforcement proceeding against an alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the adjudication of any application for a change in immigration status or other benefit by such alien, or

"(ii) preparation for a civil or criminal enforcement proceeding against a citizen or national of a country participating in the visa waiver program and directly engaged in—

"(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary’s authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulations regarding the enforcement of tax laws otherwise relating to taxation or the Social Security system.

Submission E—Identification Document Integrity

SEC. 331. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

A no-match notice means a written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W-2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

The provisions of paragraph (1) shall not apply to—

(1) inspections of alien applicants for admission to the United States; and

(2) verification of personal identification of persons outside the United States.

The Secretary of Homeland Security shall maintain a regularly updated public listing, compiled in consultation with the Secretary of State, and including sample facsimiles, of all acceptable Federal documents that satisfy the requirements of paragraph (3)(A).

(b) ESTABLISHMENT OF PERSONAL IDENTITY.—Section 274a(c) of the Immigration and Nationality Act (8 U.S.C. 1324a(c)) is amended—

(1) in paragraph (5), by striking ‘or’ at the end;
‘(d) DEFENSE.—

‘(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referring for a fee.

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

‘(d) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

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

‘(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1), the employer shall certify under penalty of perjury that—

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

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

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

‘(1) ATTESTATION BY EMPLOYER.—

‘(A) REQUIREMENTS.—

‘(B) REQUIREMENTS.—

‘(c) D O C U M E N T V E R I F I C A T I O N R E Q U I R E M E N T S.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for such employment by meeting the following requirements:

‘(1) ATTESTATION BY EMPLOYER.—

‘(2) EXCEPTION.—

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

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

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

‘(1) a United States passport; or

SA 4188. Mr. KENNEDY (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill to promote comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Title III—Unlawful Employment of Aliens

Section 301. Unlawful Employment of Aliens

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

‘SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

“(a) EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

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

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

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

“(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) USE OF LABOR THROUGH CONTRACT.—

“(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing, or with reckless disregard, that such alien is not a lawful alien with respect to such employment—

“(i) that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraphs (1)(A) and (B); or

“(ii) the person hiring such alien failed to comply with the requirements of subsections (c) and (d) shall be considered to have hired the alien in violation of paragraph (1)(B).

“(B) INFORMATION SHARING.—The person hiring the alien shall provide to the employer who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioner of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

“(C) REPORTING REQUIREMENT.—The employer shall submit to the Electronic Employment Verification System established under subsection (d), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

“(D) ENFORCEMENT.—The Secretary shall implement procedures to utilize the information obtained under subparagraphs (B) and (C) to identify employers who use a contract, subcontract, or exchange to obtain the labor of an alien from a person hiring such alien, where such person hiring such alien failed to comply with the requirements of this section, employer.

Section 302. Machine-Readable, Tamper-Resistant Immigration Documents

SEC. 302. MACHINE-READABLE TAMPER-RESISTANT IMMIGRATION DOCUMENTS.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

“(1) in the heading, by striking ‘ENTRY AND EXIT DOCUMENTS’ and inserting ‘TRAVEL, ENTRY, AND EVIDENCE OF STATUS DOCUMENTS’;

“(2) in subsection (b)(1)—

“(A) by striking ‘Not later than October 26, 2004, the Attorney General’ and inserting ‘The Secretary of Homeland Security’; and

“(B) by striking ‘visas and’ each place it appears and inserting ‘visas, evidence of status, and’;

“(3) by striking subsection (d) and inserting the following:

‘(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of immigrant, non-immigrant, parole, asylum, or refugee status, shall be machine-readable, tamper-resistant, and incorporate a biometric identifier to allow the Secretary of Homeland Security to electronically verify the identity and status of the alien.

“(e) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursements to international and domestic standards organizations.

“(2) FEES.—During any fiscal year for which appropriations sufficient to issue documents described in subsection (d) are not made pursuant to law, the Secretary of Homeland Security is authorized to implement and collect a fee sufficient to cover the direct cost of issuance of such document from the alien to whom the document will be issued.

“(3) TECHNICAL AMENDMENT.—The table of contents of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 116 Stat. 543) is amended by striking the item relating to section 303, machine-readable, tamper-resistant, travel, entry, and evidence of status documents.”.

Subtitle F—Effective Date; Authorization of Appropriations

Section 351. Effective Date

Except as otherwise specially provided in this Act, any reference in this Act to this title shall take effect not later than 45 days after the date of the enactment of this Act.

Section 352. Authorization of Appropriations

In case In which the Secretary is authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.
(ii) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that satisfies the requirements of section 103(b) of title 8, United States Code, for a driver's license or identification card; or

(iii) a passport issued by the United States; an alien travel document issued by the Department of Homeland Security; or a document issued by a foreign country that the Secretary, in consultation with the Commissioner of Social Security, shall designate as a document treated as an alien travel document for purposes under this section.

(5) RETENTION OF ATTESTATION.—The employer shall retain an attestation in a manner prescribed by the Secretary under paragraph (3)(B) at such time as the employer is required to permit access to or review of such attestation.

(6) ADDITIONAL GUIDANCE.—The Secretary shall, directly or indirectly, the issuance, use, or establishment of a national identification card or a state identification card.

(b) Electronic Employment Verification System.—

(1) REQUIREMENT FOR SYSTEM.—The Secretary shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

(A) the individual is a national of the United States; and

(B) such individual is eligible for employment in the United States; and

(C) the identifying information submitted by an individual is consistent with the information maintained by the Secretary or the Commissioner of Social Security; and

(D) such individual has obtained employment in the United States.

(2) REQUIREMENT FOR PARTICIPATION.—The Secretary shall require all employers in the United States to participate in the System, with respect to each employee hired by the employer on or after the date that is 18 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection.

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

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

(B) to require any employer or class of employers to participate in the System with respect to employees hired prior to, on, or after the date of enactment of the Comprehensive Immigration Reformation Act of 2006.

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

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

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

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

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

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

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

(7) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an employee—

(A) such failure shall be treated as a violation of subsection (a)(1)(B) and (B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(B); and

(C) such presumption may not apply to a prosecution under subsection (f)(1).

(8) DESIGN AND OPERATION OF SYSTEM.—

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

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

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

(B) INITIAL INQUIRY.

(1) INFORMATION REQUIRED.—A registered employer shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)—

(i) the individual’s name and date of birth;

(ii) the individual’s social security account number; and

(iii) in the case of an individual who does not attest that the individual is a national of the United States under paragraph (2)(C)(2), such alien identification or authorization number that the Secretary shall require.

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

(A) 20 business days after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

(B) in the case of an employee hired by a critical employer under paragraph (3)(B) at such time as the Secretary shall specify.
Section 274A Nonconfirmation of Fraudulent Information Provided by an Individual

(C) Initial Response.—Not later than 10 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer:

(i) if the System is able to confirm the individual’s identity and eligibility for employment in the United States, a confirmation including the appropriate code indicating a confirmation notice; or

(ii) if the System is unable to confirm the individual’s identity or eligibility for employment in the United States, an error notification including the appropriate code indicating a tentative nonconfirmation notice.

(D) Confirmation or Nonconfirmation.—

(I) Confirmation upon Initial Inquiry.—If an employer receives a confirmation notice under paragraph (C)(i) for an individual, the employer shall record on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

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

(iii) If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual’s employer, the notice shall become final and the employer shall record on the form described in subsection (c)(2), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. If an individual’s failure to contest a tentative nonconfirmation notice shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

(iv) Contest.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in paragraphs (E)(iii) not later than 10 days after receiving the notice from the System.

(V) Effective Period of Tentative Nonconfirmation Notice.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or the earlier of—

(I) a final confirmation notice or final nonconfirmation notice is issued through the System; or

(II) 30 days after the individual contests a tentative nonconfirmation under clause (iv).

(F) Consequences of Nonconfirmation.—If the employer has received a final nonconfirmation notice regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information within 1 day that shows that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such notice may not apply to a prosecution under section 274A(f).

(G) Responsibilities of the Secretary.—

(I) in general.—The Secretary shall provide through the System, within the time periods required by this subsection—

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

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

(II) Annual Report and Certification.—Not later than the date that is 24 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Secretary shall submit to Congress a report that includes:

(i) an assessment of whether the System is able to correctly issue, within the period described in subparagraph (D)(v)(II), a final notice in at least 99 percent of the cases in which an individual is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice);

(ii) if the assessment under clause (i) is that the System is able to correctly issue within the specified time period a final notice in at least 99 percent of the cases in which an individual is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice), a certification of such assessment.

(H) Contest and Self-Verification.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative information notice, or seeks to verify the individual’s own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

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

(i) information about the reason for such notice;

(ii) the right to contest such notice;

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

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

(D) Responsible for Training Materials.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer’s participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274A(b)(7) and 274A(c).

(F) Responsibilities of the Commissioner of Social Security.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 203(c)(2) of the Social Security Act.

(G) Procedures.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under paragraph (A) and to make final determinations on such appeals.

(H) Review of Errors.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual’s eligibility to work in the United States, the administrative review process shall require the Secretary to determine if the final nonconfirmation notice issued for the individual was the result of—

(i) an error or negligence on the part of an employee or official operating or responsible for the System; or

(ii) erroneous system information that will affect the result of acts or omissions of the individual.

(I) Compensation for Error.—
(1) In general.—If the Secretary makes a determination under subparagraph (C) that the final confirmation notice issued for an individual was not caused by an act or omission of the Secretary, the Secretary shall take such affirmative action as the Secretary determines is appropriate, which shall include compensating the individual for reasonable lost wages.

(2) 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 180 days after completion of the administrative review process described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

(3) Limitation on collection and use of data.—

(A) Limitation on collection of data.—

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

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

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

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

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

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

(B) Civil penalty.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.

(4) Limitation on use of data.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the Secretary—

"(i) for the purpose of committing identity fraud; or assisting another person in committing identity fraud; or

"(ii) for the purpose of unlawfully obtaining, maintaining, employing in the United States for any other person; or

"(iii) for any purpose other than as provided for under any provision of law; shall be fined not more than $10,000 and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(C) Indemnities.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

(5) Modification authority.—The System shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be obtained or other than:

"(i) in general.—If the Secretary makes a determination under subparagraph (C) that the final confirmation notice issued for an individual was not caused by an act or omission of the Secretary, the Secretary shall take such affirmative action as the Secretary determines is appropriate, which shall include compensating the individual for reasonable lost wages.

"(ii) calculation of lost wages.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the administrative review process described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

"(iii) limitation on collection and use of data.—

"(A) limitation on collection of data.—

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

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

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

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

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

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

(B) civil penalty.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.

"(B) Limitation on use of data.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the Secretary—

"(I) for the purpose of committing identity fraud; or

"(ii) for the purpose of unlawfully obtaining, maintaining, employing in the United States for any other person; or

"(iii) for any purpose other than as provided for under any provision of law; shall be fined not more than $10,000 and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(C) Indemnities.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

(6) Annual GAO study and report.—

"(A) Requirement.—The Comptroller General of the United States shall conduct an annual study of the System.

"(B) purpose.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

"(C) Report.—The report shall be submitted to Congress not later than 120 days after the date that is 24 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

"(i) An assessment of the annual report and certification described in paragraph (8)(E)(ii).

"(ii) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the categories described in paragraph (8), or including a separate assessment of such rate for nationals and aliens.

"(iii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

"(iv) An assessment of the effects of the System on the employment of unauthorized aliens.

"(v) An assessment of the effects of the System, including the effects of tentative non-confirmation on unauthorized aliens, unauthorized immigration-related employment practices and employment discrimination based on national origin or citizenship status.

"(vi) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out their duties and responsibilities of this section.

(7) Compliance.—

"(A) complaints and investigations.—The Secretary shall establish procedures for conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security, shall have reasonable access to examine evidence regarding any employer being investigated; and

"(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

(8) Failure to cooperate.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General bring in contempt of court as contempt.

(9) Department of labor.—The Secretary of Labor shall have the investigative powers and authorities provided in section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

(10) Compliance procedures.—

"(A) Prepenalty notice.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

"(i) describe the violation;

"(ii) specify the laws and regulations allegedly violated;

"(iii) specify the amount of fines or other penalties to be imposed;

"(iv) disclose the material facts which establish the alleged violation; and

"(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim should not be imposed.

(B) Remission or mitigation of penalties.—

"(i) review by secretary.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines that the existence of such mitigating circumstances, and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

"(i) describe the violation;

"(ii) specify the laws and regulations allegedly violated;

"(iii) specify the amount of fines or other penalties to be imposed;

"(iv) disclose the material facts which establish the alleged violation; and

"(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim should not be imposed.
other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice.

(f) CRIMINAL PENALTIES.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or any other requirements of this section.

(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer, the Secretary shall determine whether a violation and serious injury occurred and shall issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

(4) CIVIL PENALTIES.—

(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—If an employer violates any provision of paragraphs (1), (2), or (3) of subsection (a) shall pay civil penalties as follows:

(1) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each violation.

(2) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $8,000 for each unauthorized alien with respect to each such violation.

(3) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such any provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

(1) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

(2) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $400 and not more than $1,000 for each such violation.

(3) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such provisions, pay a civil penalty of not less than $600 and not more than $2,000 for each such violation.

(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders and other requirements of this section.

(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary’s determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit in any district court of the United States to enforce compliance with the final determination, not earlier than 46 days and not later than 180 days after the date the final determination was made, in which the assessment is made, and may not be reimbursed from any other source.

(7) RECOVERY OF COSTS AND ATTORNEY'S FEES.—In any appeal brought under paragraph (5) or suit brought under paragraph (6) of this section the employer shall be entitled to recover from the Secretary reasonable costs and attorney’s fees if such employer substantially prevails on the merits of the case. Such an award of attorney’s fees may not exceed $25,000. Any such costs and attorney's fees assessed against the Secretary shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and may not be reimbursed from any other source.

(1) CRIMINAL PENALTY .—An employer that engages in a pattern or practice of knowing violations of this section shall be fined not more than $200,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a) the Attorney General may bring a civil action in the appropriate district court of the United States requesting a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

(8) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney's fees set forth in this section shall be increased every 4 years beginning January 2010 to reflect the percentage increase in the price paid for consumer goods and services (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

(9) PROHIBITION OF INDENTURE BONDS.—No indenture or other obligations of any kind shall be valid for an employer, in the hiring, recruiting, or referring of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee of indemnity against any potential liability arising under this section relating to such hiring, recruiting, or referring of an individual.

(10) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for the employer to be heard, to have violated any provision of this section or any rule or regulation promulgated thereunder, shall be subject to a civil penalty of not more than $10,000 for each violation and to an administrative order requiring the employer to refund the victim of the violation of such provision to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

(11) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, OR AGREEMENTS.—

(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

NOTICE TO AGENTS.—The Secretary shall not be judicially reviewed.

(C) WAIVER.—After consideration of the views of any agency or department that administers, grants, or cooperates with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the consideration of whether the employer, for what duration, and under what scope in accordance with the procedures and standards set forth in this section or the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative debarment may not be judicially reviewed. The decision of whether to debar or take alternate action under this subparagraph shall not be judicially reviewed.

(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this section shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

(4) MISCELLANEOUS PROVISIONS.—

(A) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens eligible to be employed in the United States, the Secretary may provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement (other than an alien lawfully admitted for permanent residence).

(B) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal liability (other than through licensing and similar laws) upon those who employ, or recruit or refer
(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be credited by the Secretary into the Employer Compliance Fund established under section 286W.(l) DEFINITIONS.—In this section:

(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity which is a Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

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

(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' shall be defined with respect to the employment of an alien at a particular time, that the alien is not at that time either—

(A) an alien lawfully admitted for permanent residence; or

(B) authorized to be so employed by this Act or by the Secretary.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK .—The Commissioner of Social Security shall, subject to the provisions of section 274A(d)(3)(B) of the Immigration and Nationality Act (as amended by subsection (a), may be continued or extended to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such section (d).


(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ‘‘274A(b)’’ and inserting ‘‘274A(d)’’; and

(B) in subsection (g)(2)(B), by striking ‘‘274A(b)’’ and inserting ‘‘274A(d)’’.

(c) THE SOCIAL SECURITY ACT.—(1) THE SOCIETY SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 655(c)(2)) is amended by adding at the end the following new subparagraph:

‘‘(i) The Commissioner of Social Security shall, subject to the provisions of section 301(1) of the Comprehensive Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by the Permanent Resident Card Modernization and Nationality Act (referred to in this subparagraph as the ‘System’), within the time periods required by paragraph (b) of this subsection—

(I) establish and enforce employer participation in the System, to

(II) more than 10 names of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

(III) more than 100 names and taxpayer identifying numbers (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security.

(2) DISCLOSURE OF INFORMATION REGARDING EMPLOYERS OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of each person who has an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, contains evidence of identity fraud due to the Secretary—

(A) shall establish and enforce employer participation in the System, to

(B) agrees to conduct an on-site review of the System every 3 years (mid-point review in the case of

DHS CONTRACTORS WITH CONFIDENTIALITY REQUIREMENTS.—(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

‘‘(B) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

(A) has requirements in effect which require such contractor for which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4) to protect the confidentiality of returns or return information; and

(B) agrees to conduct an on-site review of the System every 3 years (mid-point review in the case of

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contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements.

(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

(D) certifies to the Secretary for the most recent period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of funds, increase the number of personnel of the Bureau of Immigration and Customs Enforcement during the fiscal years 2007 through 2011 to at least the number of personnel of the Bureau of Immigration and Customs Enforcement as of the date of enactment of this Act.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 212(a)(8)(D) of the Act shall be amended by inserting “or paragraph (9)” after subparagraph (A).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MIGRANTS.

(a) PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274A(b)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting “and the duration of such contract or agreement.”

(b) IN GENERAL.—The amendments made by section 303 shall apply to the Federal Old-Age and Survivors Insurance Fund and the Federal Disability Insurance Trust Fund be deposited in the Federal Disability Insurance Trust Fund by the Secretary of the Treasury, until expended and shall be refunded out of any other fund.

(c) SCREENING OF APPLICANTS.—The Commission of Immigration and Naturalization shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274A(b)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting “the verification of the individual’s work authorization through the Electronic Employment Verification System as described in section 274A(d),” after “the individual for employment.”

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 212(a)(8)(B) (8 U.S.C. 1322a(a)(8)(B)) is amended by adding to read as follows: “(B) is an alien who—

(i) lawfully admitted for permanent residence under section 210a or 245a;

(ii) granted the status of a nonimmigrant under section 101(a)(15)(H)(i)(c); or

(iii) granted temporary protected status under section 244, or

(iv) granted parole under section 212(d)(5).”

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(a) (8 U.S.C. 1321(b)(a)) is amended by adding at the end the following:

“(1) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation; or

(B) to use the verification system for screening of an applicant prior to an offer of employment;

(C) to use the verification system described in section 274A(d)(3)(B), to use the verification system for a current employee after the first 3 days of employment, or for the revocation of an employee after the employee has satisfied the process described in section 274A(d); or

(D) to require an individual to make an inquiry under the self-certification procedures established in section 274A(d)(6).”

(e) INCREASE IN CIVIL MONEY PENALTIES.—Section 274A(g)(2) (8 U.S.C. 1324a(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in clause (I), by striking “$250 and not more than $2,000” and inserting “$1,000 and not more than $4,000”; and

(B) in clause (II), by striking “$2,000 and not more than $5,000” and inserting “$5,000 and not more than $10,000”;

(C) in clause (III), by striking “$3,000 and not more than $10,000” and inserting “$6,000 and not more than $20,000”; and

(D) in clause (IV), by striking “$100 and not more than $1,000” and inserting “$500 and not more than $3,000”;

(f) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274A(b)(1) (8 U.S.C. 1324b(b)(1)) is amended by inserting “and an additional $40,000,000 for each of fiscal years 2007 through 2009” before the period at the end.

(g) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act, and shall apply to violations occurring on or after such date.

SA 4150. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 391, strike line 24 and insert the following:

“(g) CONFIDENTIALITY OF INFORMATION.—The restrictions on the use of information set out in subsection (e) of section 245B shall apply to information submitted by an alien seeking Deferred Mandatory Departure status under this section.”

SA 4149. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 29 and 30, insert the following:

“(e) Confidentiality of Information.—The restrictions on the use of information set out in subsection (e) of section 245B shall apply to information submitted by an alien seeking Deferred Mandatory Departure status under this section.”

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 6 and 7, insert the following:

“Subtitle B—Preservation of Immigration Benefits for Hurricane Katrina Victims

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ‘Hurricane Katrina Victims Immigration Benefits Preservation Act’.”
SEC. 512. DEFINITIONS.

In this subtitle:

(1) APPLICATION OF DEFINITIONS FROM THE IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this subtitle, the definitions in the Immigration and Nationality Act shall apply in the administration of this subtitle.

(2) DIRECT RESULT OF A SPECIFIED HURRICANE DISASTER.—The term ‘‘direct result of a specified hurricane disaster’’—

(A) means physical damage, disruption of communications or transportation, forced or voluntary evacuation, business closures, or other circumstances directly caused by Hurricane Katrina (on or after August 26, 2005) or Hurricane Rita (on or after September 21, 2005); and

(B) does not include collateral or consequential economic effects in or on the United States or global economies.

SEC. 513. SPECIAL IMMIGRANT STATUS.

(a) PROVISION OF STATUS.—

(1) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(A) is the Secretary of Labor on or before August 26, 2005—

(i) an immediate relative of a citizen of the United States; or

(ii) a spouse or child of a principal alien described in paragraph (1)(B)(i) shall be disregarded.

(B) is otherwise eligible to receive an immigrant visa; and

(C) is otherwise admissible to the United States for permanent residence.

(2) INAPPLICABLE PROVISION.—In determining admissibility under paragraph (1)(C), the grounds for inadmissibility specified in section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) IN GENERAL.—An alien is described in this subsection if—

(A) the alien was the beneficiary of—

(i) a petition that was filed with the Secretary on or before August 26, 2005—

(I) in subparagraph (A)(i), the grounds for inadmissibility specified in section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)) shall not apply; and

(ii) mail or courier service cessations or delays;

(ii) an alien who died as a direct result of a specified hurricane disaster, such voluntary departure is—

(A) I N GENERAL.—Notwithstanding section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on August 26, 2005, may, unless otherwise determined by the Secretary in the Secretary's discretion, lawfully remain in the United States in the same nonimmigrant status until the later of—

(I) the date on which such lawful nonimmigrant status would have otherwise terminated the enactment of this subsection; or

(II) 1 year after the death or onset of disability described in paragraph (2).

(B) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien was disabled as a direct result of a specified hurricane disaster.

(C) DIVERSITY IMMIGRANTS.—Section 203(e) of the Immigration and Nationality Act (8 U.S.C. 1154a(e)) is amended to read as follows:

(1) I N GENERAL.—An immigrant visa made available under section 203(c) for fiscal year 1998, or for a subsequent fiscal year, may be issued, if the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide level set forth in subsection 203(e) for the fiscal year for which the alien was selected.

(2) VOLUNTARY DEPARTURE.—For purposes of this subsection, circumstances preventing an alien from timely acting are—

(A) office closures;

(B) transportation cessations or delays;

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(D) mandatory evacuation and removal; and

(E) other circumstances, including medical problems or financial hardship.

(3) CURRENT NONIMMIGRANT VIS versa the United States as a nonimmigrant on August 26, 2005, is unable to timely depart the United States as a direct result of a specified hurricane disaster, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on August 26, 2005, and ending on the date of the alien's departure, if such departure occurred on or before February 28, 2006.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTING ARE—

(i) office closures;

(ii) transportation cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy other legal requirements;

(iv) mandatory evacuation and removal; and

(v) other circumstances, including medical problems or financial hardship.

(4) DEPARTURE DELAYS.—For purposes of this subsection, circumstances preventing an alien from timely acting are—

(A) office closures;

(B) transportation cessations or delays;

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(D) mandatory evacuation and removal; and

(E) other circumstances, including medical problems or financial hardship.

(C) CURRENT NONIMMIGRANT VISA HOLDERS.—In general.—An alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, is unable to timely depart the United States as a direct result of a specified hurricane disaster, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on August 26, 2005, and ending on the date of the alien's departure, if such departure occurred on or before February 28, 2006.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTING ARE—

(i) office closures;

(ii) transportation cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(iv) mandatory evacuation and removal; and

(v) other circumstances, including medical problems or financial hardship.

(D) CURRENT NONIMMIGRANT VIS
101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) and lost employment as a direct result of a specified hurricane disaster may accept new employment as a direct result of a specified hurricane disaster may accept new employment as a direct result of a specified hurricane disaster; and

(2) DETERMINATION.—Nothing in this subsection shall be construed to limit eligibility for permanent residence by such date) a valid petitioner for adjustment of status before the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(1) who was in lawful status on August 26, 2005, and

(2) the Committee of the Judiciary of the House of Representatives.

(c) SUNSET DATE.—The authority under subsection (a) shall expire on August 26, 2008.

SEC. 519. NATURALIZATION.

The Secretary may, with respect to applicants for naturalization in any district of the United States Citizenship and Immigration Services affected by a hurricane disaster, administer the provisions of Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) notwithstanding any provision of law to the contrary, upon the initiation of an immigration benefit under this title of an eligible court to administer the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle.

The Secretary shall carry out the provisions of this subtitle to the extent to which the Secretary determines necessary or appropriate to respond to national emergencies or disasters.

(1) The Committee on the Judiciary of the Senate; and

(2) The Attorney General may waive violations of the immigration laws committed—

(a) IN GENERAL.—The Secretary may suspend or modify any requirement under section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) or subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), either generally or with respect to particular persons, classes of persons, geographic areas, or economic sectors, in which the Secretary determines necessary or appropriate to respond to national emergencies or disasters.

(b) NOTIFICATION.—If the Secretary suspends or modifies any requirement under section 274A(b) of the Immigration and Nationality Act pursuant to subsection (a), the Secretary shall send notice of such decision, including the reasons for the suspension or modification, to—

(1) the Committee on the Judiciary of the Senate; and

(2) the Committee of the Judiciary of the House of Representatives.

SEC. 520. DISCRETIONARY AUTHORITY.

The Secretary may, with respect to applicants for naturalization in any district of the United States Citizenship and Immigration Services affected by a hurricane disaster, administer the provisions of Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) notwithstanding any provision of law to the contrary, upon the initiation of an immigration benefit under this title of an eligible court to administer the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle.

The Secretary shall establish appropriate evidentiary standards for demonstrating, for purposes of this subtitle, that a specified hurricane disaster directly resulted in—

(1) death;

(2) disability; or

(3) loss of employment due to physical damage to, or destruction of, a business.

SEC. 522. IDENTIFICATION DOCUMENTS.

(a) TEMPORARY IDENTIFICATION.—The Secretary may issue temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may issue identification documents under this section after January 1, 2003.

(c) NO COMPLIANCE TO ACCEPT OR CARRY IDENTIFICATION DOCUMENTS.—Nationals of the United States shall not be compelled to accept or carry documents issued under this section.

(d) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 523. WAIVER OF REGULATIONS.

The Secretary shall carry out the provisions of this subtitle to the extent to which the Secretary determines necessary or appropriate to respond to national emergencies or disasters.
this subtitle. The requirements of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”) or any other law relating to rule making, implementation, or publication in the Federal Register, shall not apply to any action to implement this subtitle to the extent the Secretary of Homeland Security, the Secretary of Labor, or the Secretary of State determine that compliance with such requirement would impede the expeditious implementation of such Act.

SEC. 255. FOREIGN STUDENTS AND EXCHANGE PROGRAM PARTICIPANTS.

(a) In General.—The nonimmigrant status of an alien described in subsection (b) shall be deemed to have been maintained during the period beginning on August 26, 2005, and ending on September 15, 2006, if, on September 15, 2006, the alien is enrolled in a course of study, or participating in a designated exchange visitor program, sufficient to satisfy the terms and conditions of the alien’s nonimmigrant status on August 26, 2005.

(b) Aliens Described.—An alien is described in this subsection if the alien—

(1) resided, on August 26, 2005, within a district of the United States that was declared by the President to be affected by a specified hurricane disaster; and

(2) is required under section 265 of the Immigration and Nationality Act (8 U.S.C. 1305) or any other provision of law, to notify the Secretary in writing of a change of address.

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 297. VOTER VERIFIED BALLOTS.

"(a) In General.—Title II of the Help America Vote Act of 2002 (42 U.S.C. 15521 et seq.) is amended by adding at the end the following new section:

"(b) Aliens Described.—An alien is described in this subsection if the alien—

(1) was, on August 26, 2005, lawfully present in the United States in the status of a nonimmigrant described in subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) fails to satisfy a term or condition of such status as a direct result of a specified hurricane disaster.

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 304. ELECTION ADMINISTRATION REQUIREMENTS.

"(a) Notice of Changes in State Election Laws.—Not later than 15 days prior to any Federal election, each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

"(b) Observers.—Each State shall allow uniform and nondiscriminatory access to any polling place for purposes of observing a Federal election to—

"(1) voter observers;

"(2) voting rights and civil rights organizations; and

"(3) nonpartisan domestic observers and international observers.

"(c) Notice of Denial of Observation Request.—Each State shall issue a public notice with respect to any denial of a request by an observer described in paragraph (1) for access to any polling place for purposes of observing a Federal election. Such notice
shall be issued not later than 24 hours after such denial.

“(c) Effective Date.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”

(b) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15611) is amended by striking “and 303” and inserting “303, and 304”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

SA 4156. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 297. VOTER IDENTIFICATION.

(1) IN GENERAL.—Title II of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking “and 303” and inserting “303, and 304”.

(2) REQUIREMENTS OF NOTICE.—The notice required under paragraph (1) shall be—

(A) provided to each voter in a uniform and nondiscriminatory manner;

(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

(C) in the form and manner prescribed by the Election Assistance Commission.

(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”

(b) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15611) is amended by striking “and 303” and inserting “303, and 304”.

(c) Standards for Internet Registration.—(1) IN GENERAL.—Title II of the Help America Vote Act of 2002 (42 U.S.C. 1551 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

“Subtitle E—Guidance and Standards

SEC. 297. STANDARDS FOR INTERNET REGISTRATION PROGRAMS.

“The Commission shall establish guidance and standards concerning the design and operation of programs which allow electronic voter registration through the Internet.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (6) the following new paragraph:

“(5) carrying out the duties described in subtitle E;

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15239) is amended—

(a) by striking “the Commission” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), the Commission”, and

(b) by inserting at the end the following new subsection:

“(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title.”

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

SA 4158. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 304. IN REMOVAL FROM VOTER REGISTRATION LIST.

“(a) Public Notice.—Not later than 45 days before any Federal election, each State shall provide public notice of all names which have been removed from the voter registration list of such State under section 303 since the later of the most recent election for Federal office or the day of the most recent previous public notice provided under this section.

(b) Notice to Individual Voters.—(1) IN GENERAL.—No individual shall be removed from the voter registration list under section 303 unless such individual is first provided with a notice which meets the requirements described in paragraph (1) of subsection (a).”

“(2) Requirements of Notice.—The notice required under paragraph (1) shall be—

(A) provided to each voter in a uniform and nondiscriminatory manner;

(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

(C) in the form and manner prescribed by the Election Assistance Commission.

(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”

(b) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking “and 303” and inserting “303, and 304”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

SA 4159. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 304. ELECTION DAY REGISTRATION.

“(a) Requirement.—(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

“Subtitle E—Guidance and Standards

SEC. 307. STANDARDS FOR VOTER IDENTIFICATION.

“The Commission shall establish guidance and standards concerning the design and operation of programs which allow electronic voter registration through the Internet.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (6) the following new paragraph:

“(5) carrying out the duties described in subtitle E;

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15239) is amended—

(a) by striking “the Commission” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), the Commission”, and

(b) by inserting at the end the following new subsection:

“(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title.”

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

SA 4158. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 304. Removal from Voter Registration List.

“(a) Public Notice.—Not later than 45 days before any Federal election, each State shall provide public notice of all names which have been removed from the voter registration list of such State under section 303 since the later of the most recent election for Federal office or the day of the most recent previous public notice provided under this section.

(b) Notice to Individual Voters.—(1) IN GENERAL.—No individual shall be removed from the voter registration list under section 303 unless such individual is first provided with a notice which meets the requirements described in paragraph (1) of subsection (a).

“(2) Requirements of Notice.—The notice required under paragraph (1) shall be—

(A) provided to each voter in a uniform and nondiscriminatory manner;

(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

(C) in the form and manner prescribed by the Election Assistance Commission.

(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”

(b) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking “and 303” and inserting “303, and 304”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

SA 4159. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 304. Election Day Registration.

“(a) Requirement.—(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

“Subtitle E—Guidance and Standards


“The Commission shall establish guidance and standards concerning the design and operation of programs which allow electronic voter registration through the Internet.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (6) the following new paragraph:

“(5) carrying out the duties described in subtitle E;

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15239) is amended—

(a) by striking “the Commission” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), the Commission”, and

(b) by inserting at the end the following new subsection:

“(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title.”

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2009.

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is amended by adding at the end the following new subtitle:

**Subtitle E—Guidance and Standards**

**SEC. 297. ELECTION DAY REGISTRATION FORM.**—The Commission shall develop an election day registration form for elections for Federal office.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) carrying out the duties described in subtitle E."

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15329) is amended—

(A) by striking "The Commission" and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (b), the Commission";

(B) by inserting at the end the following new subsection:

"(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title or section 304.";

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

SA 4160. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

**SEC. 304. MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS IN POLLING PLACES.**

(a) MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS IN POLLING PLACES. (1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

**SEC. 304. MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.**

(a) IN GENERAL.—Each State shall provide for the minimum required number of voting systems and poll workers for each polling place on the day of any Federal election and on any days during which such State allows early voting for a Federal election in accordance with the standards determined under section 297.

(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303 and 304".

(b) STANDARDS FOR EARLY VOTING.—

(1) IN GENERAL.—Title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by adding at the end the following new title:

**Subtitle E—Guidance and Standards**

**SEC. 297. STANDARDS FOR ESTABLISHING THE MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.**

(a) IN GENERAL.—The Commission shall issue standards regarding the minimum number of voting systems and poll workers required in each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

(b) DISTRIBUTION.—The standards described in subsection (a) shall provide for a uniform and nondiscriminatory geographic distribution of such systems and workers.

(c) DEVIATION.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from any requirement in the case of unforeseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) carrying out the duties described in subtitle E."

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15329) is amended—

(A) by striking "The Commission" and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (b), the Commission";

(B) by inserting at the end the following new subsection:

"(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title or section 304.";

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

SA 4161. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 304. USE OF NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.**

(a) IN GENERAL.—Any person who is otherwise qualified to vote in a Federal election in a State shall be permitted to use the national Federal write-in absentee ballot prescribed by the Election Assistance Commission under section 297 to cast a vote in an election for Federal office.

(b) SUBMISSION AND COUNTING.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a national Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved.

(2) DEADLINE.—An otherwise eligible national Federal write-in absentee ballot shall be counted if postmarked or signed before the close of the polls on election day and received by the appropriate State election official on or before the date which is 10 days after the close of the polls on election day if postmarked or signed before the close of the polls on election day and received by the appropriate State election official on or before the date which is 10 days after the close of the polls on election day if provided for receipt of absentee ballots under State law, whichever is later.

(c) SPECIAL RULES.—The following rules shall apply with respect to national Federal write-in absentee ballots:

"(1) In completing the ballot, the voter must designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of the political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.
"(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot.

"(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009."

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and 304".

(b) NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.—
(1) IN GENERAL.—Title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle E—Guidance and Standards

"SEC. 297. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

"(a) FORM OF BALLOT.—The Commission shall prescribe a national Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in elections for Federal office.

"(b) STANDARDS.—The Commission shall prescribe standards for—

"(1) distributing the national Federal write-in absentee ballot, including standards for distributing such ballot through the Internet; and

"(2) processing and submission of the national Federal write-in absentee ballot."

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) carrying out the duties described in subtitle E;"

(3) RULEMAKING AUTHORITY.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15329) is amended—

(A) by striking "The Commission" and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (b), the Commission"

(B) by striking the section at the end the following new subsection:

"(1) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title or section 304.

(c) COORDINATION WITH UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.—
(1) IN GENERAL.—The Presidential designee under the Uniformed and Overseas Citizens Absentee Voting Act, in consultation with the Election Assistance Commission, shall facilitate the use and return of the national Federal write-in ballot for absent uniformed services voters and overseas voters.

(2) DEFINITIONS.—For purposes of this subsection, the terms "absent uniformed service voter" and "overseas voter" shall have the meanings given such terms by section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973gg–6).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

SA 4163. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:
verify the ballot before it is cast and count-
ed.

“(B) A means of voter verification meets the require-
mments of this subparagraph if the voting system allows the voter to choose from one of the following options to verify the voter’s vote selection:

“(i) A paper record.

“(ii) An electronic record or other means that provides for voter verification that is accessible to vote auditors with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides privacy and independence equal to that provided for other voters.

“(C) Any means of verification described in clause (i), (ii), or (iv) of subparagraph (B) must provide verification which is equal or superior to verification through the use of a paper record.

“(D) The requirements of this paragraph shall not apply to any voting system pur-
chased before January 1, 2009, in order to meet the requirements of paragraph 3(B).

(2) CONFORMING AMENDMENT.—Clause (i) of section 301(a)(1)(A) of the Help America Vote Act of 2002, as designated under section 15482(e), is amended by inserting “and consistent with the requirements of paragraphs (2), (4), and (7)” after “independent manner”.

(b) VOTER VERIFIED BALLOTS.—Subtitle E of title II of the Help America Vote Act of 2002, as added by this Act, is amended by adding at the end the following new paragraph:

“SEC. 298. VOTER VERIFIED BALLOTS.

“The Commission shall issue uniform and nondiscriminatory standards—

“(1) for voter verified ballots required under section 301(a)(7); and

“(2) for measuring the audit requirements of section 301(a)(2).”.

(c) REPORTS.—(1) ELECTION ASSISTANCE COMMISSION.—Section 207 of the Help America Vote Act of 2002 (42 U.S.C. 15327) is amended by redesignating paragraph (5) as paragraph (6) and by insert-
ing after paragraph (4) the following new paragraph:

“(5) A description of the progress on imple-
menting the voter verified ballot require-
ments of section 301(a)(7) and the impact of the use of such requirements on the accessi-
bility, privacy, security, usability, and auditability of the system.

(2) STATUE REPORTS.—Section 258 of the Help America Vote Act of 2002 (42 U.S.C. 15088) is amended by striking “and” at the end of paragraph (2), inserting the period at the end of paragraph (3) and inserting “; and”, and by adding at the end the following new paragraph:

“(4) An analysis and description in the form and manner prescribed by the Commiss-
ion of the progress on implementing the voter verified ballot requirements of section 301(a)(7).”.

SEC. 06. REQUIREMENTS FOR COUNTING PRO-
VISONAL BALLOTS.—(a) IN GENERAL.—Section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) STATEWIDE COUNTING OF PROVISIONAL BALLOTS.—For purposes of subsection (a)(4), notwithstanding at which polling place a provisional ballot was cast within a State, the State shall count such ballot if the indi-
vidual who cast such ballot is otherwise eli-
grate to vote.”.

“(2) EFFECTIVE DATE.—Section 302 of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 322. MINIMUM REQUIRED VOTING SYS-
TEMS AND POLL WORKERS.

“(a) IN GENERAL.—Each State shall provide for the minimum required number of voting systems and poll workers for each polling place on the day of any Federal election and on any days during which such State allows early voting for a Federal election in accord-
ance with the standards described in subsection (a)(2).

“(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.

“SEC. 299B. STANDARDS FOR EARLY VOTING.

“(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added by this Act, is amended by adding at the end the following new section:

“SEC. 323. ELECTION DAY REGISTRATION.

“(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 323. ELECTION DAY REGISTRATION.

“(a) IN GENERAL.—The Commission shall issue standards describing the minimum number of voting systems and poll workers required in each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

“(b) DISTRIBUTION.—The standards de-
scribed in subsection (a) shall provide for a uniform and nondiscriminatory geographic distribution of such systems and workers.

“(c) DEVIA.

“SEC. 07. ELECTION DAY REGISTRATION.

“(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 323. ELECTION DAY REGISTRATION.

“(a) IN GENERAL.—The Commission shall issue standards for establishing the minimum required voting systems and poll workers.

“(b) IN GENERAL.—The Commission shall issue standards regarding the minimum number of voting systems and poll workers required in each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

“(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.

“SEC. 324. REMOVAL FROM VOTER REGIS-
TRATION LIST.

“(a) PUBLIC NOTICE.—Not later than 45 days before any Federal election, each State shall provide public notice of all names which have been removed from the voter regis-
tration list of such State under section 303 since the later of the most recent election for Federal office or the day of the most re-
cent previous public notice provided under this section.

“(b) NOTICE TO INDIVIDUAL VOTERS.—

“(1) IN GENERAL.—No individual shall be re-
moved from the voter registration list under section 303 unless such individual is first pro-
vided with a notice which meets the require-
ments of paragraph (1).”.

“(2) REQUIREMENTS OF NOTICE.—The notice required under paragraph (1) shall be—

“(A) provided to each voter in a uniform and nondiscriminatory manner;

“(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

“(C) in the form and manner prescribed by the Election Assistance Commission.

“(c) EFFECTIVE DATE.—Each State shall be re-
quired to comply with the requirements of this section on and after January 1, 2009.”.

“SEC. 09. EARLY VOTING.

“(a) IN GENERAL.—Each State shall allow individuals to vote in an election for Federal office not less than 15 days prior to the day scheduled for such election in the same manner as voting is allowed on such day.

“(b) MINIMUM EARLY VOTING REQUIRE-
MENTS.—Each polling place which allows vot-
ing prior to the day of a Federal election pursuant to subsection (a) shall—

“(1) allow such voting for no less than 4 hours on each day (other than Sunday); and

“(2) have uniform hours each day for which such voting occurs.

“(c) EFFECTIVE DATE.—Each State shall be re-
quired to comply with the requirements of this section on and after January 1, 2009.”.

“SEC. 299B. STANDARDS FOR EARLY VOTING.

“(a) IN GENERAL.—The Commission shall issue standards for the administration of voting prior to the day scheduled for a Fed-
eral election. Such standards shall include the nondiscriminatory geographic placement of polling places at which such voting oc-
curs.

“(b) DEVIA.

“SEC. 10. ACCELERATION OF STUDY ON ELEC-
TION DAY AS A PUBLIC HOLIDAY.

“(a) IN GENERAL.—Section 241 of the Help America Vote Act of 2002 (42 U.S.C. 15811) is

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.

“SEC. 08. INTEGRITY OF VOTER REGIS-
TRATION LIST.

“SEC. 299. VOTER VERIFIED BALLOTS.

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.

“SEC. 08. INTEGRITY OF VOTER REGIS-
TRATION LIST.

“SEC. 299. VOTER VERIFIED BALLOTS.

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.

“SEC. 08. INTEGRITY OF VOTER REGIS-
TRATION LIST.

“SEC. 299. VOTER VERIFIED BALLOTS.

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.

“SEC. 08. INTEGRITY OF VOTER REGIS-
TRATION LIST.

“SEC. 299. VOTER VERIFIED BALLOTS.

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.

“SEC. 08. INTEGRITY OF VOTER REGIS-
TRATION LIST.

“SEC. 299. VOTER VERIFIED BALLOTS.

“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day registration form for elections for Fed-
eral office.”.
amended by adding at the end the following new subsection:

“(d) REPORT ON ELECTION DAY.—

(1) IN GENERAL.—The report required under subsection (a) shall be submitted not later than 6 months after the date of the enactment of this Act, and shall be submitted at the end of the following new section:

SEC. 11. IMPROVEMENTS TO VOTING SYSTEMS.

(a) In General.—Subparagraph (B) of section 301(a)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(1)(B)) is amended by striking ‘‘; a punch card voting system, or a central count voting system’’.

(b) CLARIFICATION OF REQUIREMENTS FOR PUNCH CARD SYSTEMS.—Subparagraph (A) of section 301(a)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(1)(A)) is amended by inserting ‘‘punch card voting system, after ‘‘any’’.

SEC. 12. VOTER REGISTRATION.

(a) IN GENERAL.—Paragraph (4) of section 303(b) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(4)) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION.—On and after January 1, 2009—

“(i) in lieu of the questions and statements required under subparagraph (A), such voter registration forms shall include an affidavit to be signed by the registrant attesting both to citizenship and age; and

“(ii) subparagraph (B) shall not apply.”.

(b) PROVISIONAL BALLOTS.—Subparagraph (B) of section 303(b)(1) of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new subparagraph:

“(C) nonpartisan domestic observers and international observers.”.

(c) NOTICE OF DENIAL OF OBSERVATION REQUEST.—Each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

(d) OBSERVERS.—

“(1) IN GENERAL.—Each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

“(2) NOTICE OF DENIAL OF OBSERVATION REQUEST.—Each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

“(c) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”.

SEC. 14. IMPARTIAL ADMINISTRATION OF ELECTIONS.

Subtitle C of title II of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

SEC. 297D. ELECTION ADMINISTRATION REQUIREMENTS.

“(a) NOTICE OF CHANGES IN STATE ELECTION LAWS.—Not later than 15 days prior to any Federal election, each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

“(b) NOTIFICATION TO VOTERS.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”.

SEC. 15. STRENGTHENING THE ELECTION ASSISTANCE COMMISSION.

(a) BUDGET REQUESTS.—Part 1 of subtitle A of title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by inserting after section 209 the following new section:

“SEC. 209A. SUBMISSION OF BUDGET REQUESTS.

“Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.”.

“(b) EXEMPTION FROM PAPERWORK REDUCTION ACT.—Paragraph (1) of section 3502 of title IV, United States Code, is amended by striking subparagraphs (A), (B), (C), and (D) as subparagraphs (C), (D), (E), and (F), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) the Election Assistance Commission.”.

“(c) RULEMAKING.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15329) is amended—

“(1) by striking ‘‘The Commission’’ and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), the Commission’’;

“(2) by inserting at the end the following new subsection:

“(b) EXCEPTION.—On and after January 1, 2009, subsection (a) shall not apply to any authority granted under subtitle E of this title or subtitle C of title III.”.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 207 of the Help America Vote Act of 2002 (42 U.S.C. 15330(a)) is amended by adding at the end the following new paragraphs:

“(4) For fiscal year 2006, $2,000,000,000.

“(5) For each fiscal year after 2006, such sums as are necessary.”.

SEC. 17. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 18 and subsection (b), the amendments made by this Act shall take effect on January 1, 2009.

(b) PROVISIONAL BALLOTS.—The amendment made by section 95, 15, and 16 shall take effect on January 1, 2009.

SA 4164. Mr. Coburn submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1. REDUCTION IN IMMIGRANT VISAS.

(a) ESTIMATES OF BIRTHS TO ILLEGAL ALIENS.—The Secretary, in consultation with the Commissioner of Social Security, shall annually estimate the number of alien children who were born, during the most recently concluded calendar year, to a mother who was unlawfully present in the United States at the time of the birth if the child’s father is not a citizen of the United States.

(b) REPORT.—The Secretary shall annually submit a report to Congress that contains the estimate described in subsection (a) and an explanation of the methods used to create such estimate.

(c) VISA REDUCTION.—The Secretary shall reduce, for each fiscal year, the number of family-sponsored immigrants authorized under section 201(c) of the Immigration and Nationality Act (8 U.S.C. 1151(c)) by a number equal to the number estimated under subsection (a) for the most recently concluded calendar year.

SA 4165. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 197, strike lines 15 through 16.

SA 4166. Mr. BYRD (for himself and Mr. Greggs) submitted an amendment
intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike line 14 and all that follows through page 371, line 14, and insert the following:

“(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling $2,500, but such amount shall not be required from an alien under the age of 18.

“(4) DEPOSIT OF AMOUNT COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and those payments in such account shall be available, without fiscal year limitation, such that—

“(A) 80 percent of such funds shall be available to the Department of Homeland Security for border security purposes;

“(B) 10 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

“(C) 10 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by individuals or families of aliens applying for adjustment of status under this section.

“(5) FINES CONTINGENT ON APPROPRIATIONS.—No fine may be collected under this section in excess of $2,000 except to the extent that the expenditures of the fine to pay the costs of activities and services for which the fine in excess of $2,000 is imposed, as described in paragraph (6), is provided for in advance in an appropriations Act.

“(6) DEPOSIT OF COLLECTIONS.—Amounts collected under subsection (5) shall be deposited as an offsetting collection in, and credited to, the accounts providing appropriations—

“(A) to carry out the apprehension and detention of any alien who is inadmissible by reason of any offense covered in section 212(a);

“(B) to carry out the apprehension and detention of any alien who is deportable by reason of any offense under section 237(a);

“(C) for border sensor and surveillance technology;

“(D) for air and marine interdiction, operations, maintenance and procurement;

“(E) for customs and border protection construction;

“(F) for federal law enforcement training; and

“(G) for maritime security;

SA 4167. Mr. COLEMAN (for himself, Mr. DORGAN, Ms. COLLINS, Mrs. MURRAY, Ms. CANTWELL, Ms. SNOWE, and Mr. NELSON of Florida) submitted an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, insert the following:

SEC. 133. WESTERN HEMISPHERIC TRAVEL INITIATIVE.

(a) FINDINGS.—Congress makes the following findings:

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and between the United States and Mexico, and approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued approximately 10,000,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) EXTENSION OF WESTERN HEMISPHERIC TRAVEL INITIATIVE IMPLEMENTATION DEADLINE.—Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking “January 1, 2008” and inserting “the later of June 1, 2009, or 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subsection (i) of section 133 of the Comprehensive Immigration Reform Act of 2006.”

(c) PASSPORT CARDS.—

(1) AUTHORITY TO ISSUE.—In order to facilitate travel of United States citizens to Canada, Mexico, the countries located in the Caribbean, and Bermuda, the Secretary of State, in consultation with the Secretary, is authorized to issue travel document known as a Passport Card.

(2) ISSUANCE.—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall authorize to issue to a citizen of the United States who submits an application in accordance with paragraph (5) a travel document that will serve as a Passport Card.

(3) APPLICABILITY.—A Passport Card shall be deemed to be a United States passport for the purpose of laws and regulations relating to United States passports.

(4) VALIDITY.—A Passport Card shall be valid for the same period as a United States passport.

(5) LIMITATION ON USE.—A Passport Card may only be used for the purpose of international travel by United States citizens through land and sea ports of entry between—

(A) the United States and Canada;

(B) the United States and Mexico; and

(C) the United States and a country located in the Caribbean or Bermuda.

(6) APPLICATION FOR ISSUANCE.—To be issued a Passport Card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the information, identification, and eligibility for issuance of a United States passport.

(7) TECHNOLOGY.—

(A) EXPEDITED TRAVELER PROGRAMS.—To the maximum extent practicable, a Passport Card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as the NEXUS, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the described travel feature to the Passport Card is not developed by that date.

(B) TECHNOLOGY.—The Secretary and the Secretaries of Homeland Security and the Department of Homeland Security shall publish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department, and ensures maximum facilitation at the northern and southern borders.
from Canada through not less than at least 1 designated international border crossing in each State participating in the demonstration program.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall have the effect of creating a national identity card.

(3) AUTHORITY TO EXPAND.—The Secretary of State and the Secretary may expand the demonstration program under this subsection so that such program is carried out in additional States, through additional ports of entry, additional foreign consular posts, and in a manner that permits the use of additional types of identification documents, in consultation with the appropriate officials in the Government of Canada, including a driver’s license, that satisfies the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

(4) STUDY.—Not later than 6 months after the date that the demonstration program under this subsection is carried out, the Comptroller General of the United States shall conduct a study of—

(A) the cost of the production and issuance of documents that meet the requirements of the program compared with other travel documents;

(B) the impact of the program on the flow of cross-border traffic and the economic impact of the program.

(C) the security of travel documents that meet the requirements of the program compared with other travel documents.

(5) EXPEDITED PROCESSING FOR REPEAT TRAVELERS.—(A) IN GENERAL.—The Secretary shall, in consultation with the appropriate officials of the Government of Canada, including the Government of the United States Customs and Border Protection, may permit citizens of the United States and Canada who are unaware of the requirements of the program compared with other travel documents, in consultation with the appropriate officials of the Government of Canada, including the Government of the United States Customs and Border Protection, may permit citizens of the United States and Canada who are unaware of the requirements of the program compared with other travel documents, and may be accepted using the same document scanners. Notwithstanding any other provision of law, in the event that such certified identity document includes information that shows an individual to be a citizen of Canada, such individual shall be permitted to enter the United States from Canada. The Secretary shall ensure that, at all times, more than 80 percent of individuals in this program than Canadian provinces.

(e) EXPEDITED PROCESSING FOR REPEAT TRAVELERS.—

(1) LAND CROSSINGS.—To the maximum extent practicable, the Secretary shall expand expedited traveler programs carried out by the Secretary at ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be added to a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists.

(2) SEA CROSSINGS.—The Commissioner of Customs and Border Patrol shall conduct and operate, to an extent practicable, pilot programs to facilitate expedited processing of United States citizens returning from pleasure craft trips in Canada, Mexico, the Caribbean, or Bermuda. One such program shall be conducted in Florida and modeled on the I–68 program.

(f) PROCESS FOR INDIVIDUALS LACKING APPROPRIATE DOCUMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program that satisfies section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

(a) to permit a citizen of the United States who is unknown to the United States to enter the United States with a passport or other appropriate travel document to cross the international border and return to the United States for a time period of not more than 72 hours, on a limited basis, and at no additional fee; or

(b) to establish a process to ascertain the identity of, and make admissibility determinations on, individuals described in paragraph (A) upon the arrival of such citizen at an international border of the United States.

(2) GRACE PERIOD.—During a time period determined by the Secretary, officers of the United States Customs and Border Patrol may permit citizens of the United States and Canada who are unaware of the requirements of the program compared with other travel documents, in consultation with the appropriate officials of the Government of Canada, including a driver’s license, that satisfies the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) or, otherwise lacking appropriate documentation, to enter the United States at an international border of citizenship satisfactory to the officer. Officers of the United States Customs and Border Patrol shall educate such individuals about documentary requirements.

(3) RULE OF CONSTRUCTION.—Nothing in this section, and the amendment made by this section, and the amendment made by this section.

(g) TRAVEL BY CHILDREN.—For travel to Canada, the Secretary shall have authority to waive the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) for travel by children who are 17 years old or younger traveling in groups of 6 or more, provided that such groups present documents demonstrating parental consent for each child’s travel. The Secretary may issue similar regulations for travel to Mexico.

(h) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary of Defense, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the Western Hemisphere Travel Initiative.

(i) such cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending on the later of 60 days prior to the date of certification; and

(j) the Secretary of State and the Secretary of State shall have authority to waive the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, in addition to the NEXUS, SENTRI, FAST and Border Crossing Card programs, such alternative document is widely available and well publicized;

(2) United States border crossings have been equipped with sufficient document readers and other technologies to ensure that implementation will not substantially slow the flow of traffic and persons across international borders;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept Passport Cards and all alternative identification documents at all United States border crossings; and

(4) the outreach plan described in subsection (g) has been implemented and the Secretary determines such plan has been successful in providing information to United States citizens.

13] and including a citizenship verification measure the success of the public promotion plan to inform United States citizens about the Western Hemisphere Travel Initiative and the Western Hemisphere Travel Initiative.

12] and a valid passport; or

(3) officers of the Bureau of Customs and Border Protection shall conduct a study of—

(A) the impact of the program on the flow of international border;

(B) if the Secretary and the Secretary of Defense determines such plan has been successful in providing information to United States citizens.

There is authorized to be appropriated to the Secretary of State and the Secretary such sums as may be necessary to carry out this section, and the amendment made by this section.

SA 4168. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 397, strike lines 21 through 25 and insert the following:

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

SA 4169. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 398, strike lines 10 through 13, and insert the following:

on page 398, strike line 14, and insert the following:

or harm to property in excess of $500; or

(iii) the alien fails to perform the agricultural employment described in subsection (c)(1)A)(i) unless the alien was unable to work in agricultural employment due to the
extraordinary circumstances described in subsection (c)(1)(A)(iii).

SA 4171. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 429, strike line 8 and all that follows through page 502, line 25, and insert the following:

CHAPTER 2—REFORM OF H-2A WORKERS

SEC. 615. ADJUSTMENT OF THE IMMIGRATION AND NATIONALITY ACT.

Section 218 (8 U.S.C. 1188) is amended to read as follows:

"SA 218. ADMISSION OF TEMPORARY H-2A WORKERS.

(a) EMPLOYER APPLICATIONS.—

(1) APPLICATIONS TO THE SECRETARY OF LABOR.—

(A) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise employed as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

(i) a description of the nature and location of the work to be performed;

(ii) the assurances described in paragraph (2);

(iii) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

(iv) the number of opportunities in which the employer seeks to employ the workers.

(B) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (A) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualification which is being posted by a worker to be employed in the job opportunity in question.

(2) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in paragraph (1)(A)(i) are the following:

(i) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a collective bargaining agreement which was negotiated at arm’s length between a bona fide union and the employer.

(ii) STRIKE OR LOCKOUT.—The specific job opportunity is not covered by a collective bargaining agreement to which the employer is a party.

(iii) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer seeks to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

(iv) REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

(A) the nonimmigrant performs duties in whole or in part at one or more work sites owned, operated, or controlled by such other employer; and

(B) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

(C) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

(v) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under clause (v) of an employer if the other employer described in such clause displaced a United States worker described in such clause.

(vi) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker’s employment which shall provide benefits at least equal to those provided under the State’s workers’ compensation law for comparable employment.

(vii) EMPLOYMENT OF UNITED STATES WORKERS.—

(i) RECRUITMENT.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is approved through the current season and has made the availability of the employer’s job opportunities in the occupation at the place of intended employment known to such previous workers, who was terminated from employment by the employer for a lawful job-related reason or abandoned the job before
the worker completed the period of employment of the job opportunity for which the worker was hired.

"(bb) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in paragraph (1)(B) to the local office of the State employment security agency in the region in which the intended employment will be undertaken in the Commonwealth of Puerto Rico or the District of Columbia.

"(cc) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding item (aa), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

"(dd) STATUTORY CONSTRUCTION.—Nothing in this clause shall be construed to prohibit an employer from establishing selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

"(ee) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYERS.—

"(1) IN GENERAL.—An agricultural association may file an application under paragraph (1) on behalf of 1 or more of its employer members that the association certifies in its application is undertaking to comply with the requirements of this section.

"(B) IN GENERAL.—An employer may withdraw an application filed under paragraph (1), except that if the employer is an agricultural association, the association may withdraw an application filed under paragraph (1) with respect to 1 or more employer members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall make available for public examination, not later than 1 working day after the employer's notice, a copy of each such application to the employer.

"(2) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Employers shall provide to H-2A workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under subsection (a)(2)(B) shall include each of the following benefit, wage, and working condition provisions:

"(A) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

"(i) IN GENERAL.—An employer applying under subsection (a)(1) for H-2A workers shall offer to provide housing at no cost to the worker or to provide a housing allowance to the worker in an amount equal to the cost of comparable housing in the locality where the worker was hired and to be patronized by potential farm workers.

"(ii) TYPE OF HOUSING.—In complying with clause (i), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, Federal temporary labor camp standards shall apply.

"(iii) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

"(iv) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations to exempt the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(v) LIMITATION.—Nothing in this subparagraph shall be construed to require an employer to provide secure housing for permanent workers not employed in the temporary labor certification regulations in effect on June 1, 1986.

"(vii) HOUSING ALLOWANCE AS ALTERNATIVE.—

"(cb) EMPLOYMENT REQUIREMENTS.—

"(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers not less benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. A job offer may not condition the availability of any restrictions or obligations that will not be imposed on the employer's H-2A workers.

"(2) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Employers shall provide to H-2A workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under subsection (a)(2)(B) shall include each of the following benefit, wage, and working condition provisions:

"(A) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

"(i) IN GENERAL.—An employer applying under subsection (a)(1) for H-2A workers shall offer to provide housing at no cost to the worker or to provide a housing allowance to the worker in an amount equal to the cost of comparable housing in the locality where the worker was hired and to be patronized by potential farm workers.

"(ii) TYPE OF HOUSING.—In complying with clause (i), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, Federal temporary labor camp standards shall apply.

"(iii) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

"(iv) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations to exempt the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(v) LIMITATION.—Nothing in this subparagraph shall be construed to require an employer to provide secure housing for permanent workers not employed in the temporary labor certification regulations in effect on June 1, 1986.

"(vii) HOUSING ALLOWANCE AS ALTERNATIVE.—

"(cc) PROHIBITION.—No person or entity shall willfully or knowingly withhold United States workers from the temporary or seasonal employment of H-2A workers in order to force the hiring of United States workers under this subclause.

"(bb) COMPLAINTS.—Upon receipt of a complaint under this subparagraph, that a violation of the provisions of this subclause has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H-2A workers could not reasonably have been foreseen.

"(II) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrant entered the United States under the temporary labor certification regulations in effect on May 23, 2006.

"(iii) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

"(iv) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations to exempt the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(v) LIMITATION.—Nothing in this subparagraph shall be construed to require an employer to provide secure housing for permanent workers not employed in the temporary labor certification regulations in effect on June 1, 1986.

"(vi) CHARGES FOR HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer who is not an agricultural association, such charges may be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

"(vii) HOUSING ALLOWANCE AS ALTERNATIVE.—
‘(I) IN GENERAL.—If the requirement under subclause (II) is satisfied, the employer may provide a reasonable housing allowance in- stead of offering housing under clause (I). Upon the request of the worker seeking such allowance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this sub- clause, shall be presumed to have provided such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

‘(II) CERTIFICATION.—The requirement of this subclause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for mig- rant farm workers, and H-2A workers, who are seeking temporary housing while em- ployed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

‘(III) AMOUNT OF ALLOWANCE.—

‘(aa) NONMETROPOLITAN COUNTIES.—If the place of employment is in a non- metropolitan county, the amount of the housing allowance under this clause shall be equal to the statewide average fair market rental for existing housing for nonmetropol- itan counties for the State, as established by the Secretary of Housing and Urban Develop- ment pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and applicable to the area of intended employment for migr- ant farm workers and H-2A workers, who are seeking temporary housing while em- ployed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

‘(bb) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this clause is in a metropoli- tan county, the amount of the housing allowance under this clause shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secre- tary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assump- tion of 2 persons per bedroom.

‘(B) REIMBURSEMENT OF TRANSPORTATION AND SUBSISTENCE.

‘(I) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was reimbursed for the transportation and subsistence from the place from which the worker came to work for the employer (or place of last employed, if the worker traveled from such place) to the place of employment.

‘(II) FROM PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was reimbursed for the cost of the worker’s transportation and subsistence from the place from which the worker came to work for the employer (or place of last employed, if the worker traveled from such place) to the place of employment.

‘(III) LIMITATION.—

‘(I) AMOUNT OF REIMBURSEMENT.—Except as provided in subclause (II), the amount of reimbursement under clause (I) shall be limited to 50 percent of the worker’s wages. The employer shall only make those deductions from the worker’s wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker’s wages.

‘(V) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employ- ment, whichever is more frequent.

‘(VI) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on each payday, in 1 or more written statements—

‘(I) the worker’s total earnings for the pay period;

‘(II) the worker’s hourly rate of pay, piece rate of pay, or both;

‘(III) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the 75 percent guarantee described in subparagraph (D));

‘(IV) the hours actually worked by the worker;

‘(V) an itemization of the deductions made from the worker’s wages; and

‘(VI) if piece rates of pay are used, the units produced daily.

‘(C) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2006, the Com- troller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

‘(i) whether the employment of H-2A or unauthorized aliens in the United States ag- ricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

‘(ii) whether an adverse effect wage rate is necessary to prevent wages in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

‘(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of H-2A employ- ment;

‘(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the pre- vailing wage; and

‘(V) recommendations for future wage protec- tion under this subsection.

‘(E) COMMISSION ON AGRICULTURAL WAGE STANDARDS.—

‘(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (referred to in this clause as the "Commission")

‘(II) COMPOSITION.—The Commission shall consist of 10 members, of which—

‘(aa) 4 shall be representatives of agricul- tural employers and 1 shall be a representa- tive of the Department of Agriculture, each appointed by the Secretary of Agriculture; and

‘(bb) 4 shall be representatives of agricul- tural workers and 1 shall be a representa- tive of the Department of Labor, each appointed by the Secretary of Labor.

‘(III) DUTIES.—The Commission shall conduct a study that addresses—

‘(aa) whether the employment of H-2A or unauthorized aliens in the United States ag- ricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien
farm workers had not been employed in the United States; "(bb) whether an adverse effect wage rate is necessary to prevent wages of United States workers and alien workers employed in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers; "(cc) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment; "(dd) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; "(ee) recommendations for future wage protection under this subsection. "(IV) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under subclause (III). "(V) TERMINATION DATE.—The Commission shall terminate upon submitting its final report. "(VI) GUARANTEE OF EMPLOYMENT.— "(i) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. In this clause, "the hourly equivalent" means the number of hours in the work days as stated in the job offer and shall exclude the worker's paid holidays, sick leave, and paid vacation, if any, which the employer affords the United States or H-2A worker less employment than that required under this subparagraph. The employer shall pay such worker the amount which the worker would have earned had the worker worked for the guaranteed number of hours. "(ii) FAILURE TO WORK.—Any 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, if the worker has been offered an opportunity to work, and all hours worked are performed (including voluntary work in excess of the number of hours specified in the job offer for a work day, on the weekend, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met. "(VII) CONTRACT IMPOSSIBILITY TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the employer is not entitled to the 75 percent guarantee described in clause (I). "(VIII) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including 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 may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in clause (I) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States workers employed in the H-2A program employed in a workable employment that is acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in subparagraph (B)(iv). "(IX) CARING FOR THE WAGENS.— "(1) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.— "(A) IN GENERAL.—As provided in subclauses (III) and (IV), this subparagraph applies to any H-2A employer that uses or causes to be used an H-2A worker at the request or direction of an H-2A employer and "(B) does not apply to— "(AA) a transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or "(BB) car pooling arrangements made by H-2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor. "(2) COVERAGE.— "(A) EFFECT OF WORKERS' COMPENSATION.—In such cases, the following adjustments in the requirements of clause (ii)(1)(cc) relating to having an insurance policy or liability bond apply: "(aa) No insurance policy or liability bond shall be required of the employer, if such a bond is not required under the circumstances for which there is coverage under such State law. "(bb) An insurance policy or liability bond shall be required of the employer if such a bond is required under the circumstances for which there is coverage for the transportation of such workers is not provided under such State law. "(cc) Whether an adverse effect wage rate shall be required of the employer, if such a rate is required under the circumstances for which there is coverage for the transportation of such workers is not provided under such State law.

"(VIII) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided under this subsection, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.). "(IX) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the contract application as described in subsection (a)(l), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract. "(X) RANGE PRODUCTION OF LIVESTOCK.— "(1) PETITIONING FOR ADMISSION.—An employer or an association of employers or joint employer for its members, that seeks the admission of an H-2A worker into the United States may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under subsection (a)(5)(B)(ii) covering the petitioner. "(2) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for the expedited adjudication of petitions filed under paragraph (1). Not later than 7 working days after the receipt of such a petition, the Secretary shall, by fax, cable, or other means assuring expedited delivery, notify the petitioner and the alien of the decision on the petition and the case of the alien. "(3) RETURN TRANSPORTATION.— "(A) IN GENERAL.—If the alien is otherwise admissible under this section and the alien is not ineligible under subparagraph (B). "(B) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States if the alien is otherwise admissible under this section and the alien is not ineligible under subparagraph (B).
of authorized admission as such a non-immigrant.

(4) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.

(1) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this subsection, and who is otherwise eligible for admission in accordance with subsection (A) and (B) and not deemed inadmissible under section 212(a)(9)(B) if an alien described in the preceding sentence is present in the United States, may apply from abroad for H-2A status, but may not be granted that status in the United States.

(ii) MAINTENANCE OF WAIVER.—An alien who initially has been deemed ineligible pursuant to clause (i) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility under clause (i).

(4) PERIOD OF AdMISSION.—

(A) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to subsection (a)(9)(B)(ii), not to exceed a period of not more than 3 years

(b) REQUIREMENTS.—An identification and employment eligibility document shall be issued only if it meets the following requirements:

(i) The document shall be in a form that is resistant to counterfeiting and tampering.

(ii) The document shall be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is lawfully present in the United States; and

(iii) The document shall be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

(8) EXTENSION OF STAY IN THE UNITED STATES.

(A) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to paragraph (1), shall request an extension of the alien's stay and a change of status as a lawful permanent resident.

(B) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition for extension of status may not be filed for an extension of an alien's stay—

(i) for a period of more than 12 months;

(ii) to a date that is more than 3 years after the date of the alien's initial admission to the United States; and

(C) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—Notwithstanding any provision of the AgJOBS Act of 2006, an alien with an extension of status under section 101(a)(15)(H)(ii)(A) for employment as a sheepherder, goat herder, or dairy worker—

(1) may be admitted for an initial period of 12 months;

(2) subject to paragraph (10)(E), may have such initial period of admission extended for a period of up to 3 years and

(3) shall not be subject to the requirements of paragraph (8)(E).

(10) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.

(A) ELIGIBLE ALIEN.—In this paragraph, the term ‘eligible alien’ means an alien—

(i) having nonimmigrant status under section 101(a)(15)(H)(ii)(A) based on employment as a sheepherder, goat herder, or dairy worker;

(ii) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

(iii) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(ii).
an eligible alien under section 203(b)(3)(A)(iii).

(D) EFFECT OF PETITION.—The filing of a petition described in subparagraph (B) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(A).

(E) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition or application for adjustment of status in accordance with any other provision of law.

(f) WORKER PROTECTION AND LABOR STANDARDS ENFORCEMENT.—

(1) ENFORCEMENT AUTHORITY.—

(A) INVESTIGATION OF COMPLAINTS.—

(i) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting any failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing thereon. If such a complaint is filed with section 556 of title 5, United States Code, not later than 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall conduct an investigation concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same labor standard, the Secretary of Labor shall consolidate the hearings under this clause on such complaints.

(ii) LIMITATIONS.—The Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing thereon. If such a complaint is filed with section 556 of title 5, United States Code, not later than 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall conduct an investigation concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same labor standard, the Secretary of Labor shall consolidate the hearings under this clause on such complaints.

(iii) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor determines to be appropriate; and

(E) THE GUARDIAN OF THE SALARY.—The Secretary of Labor determines to be appropriate;

(F) CONSTRUCTION.—Nothing in this paragraph shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

(S) WORKER PROTECTION AND LABOR STANDARDS ENFORCEMENT.—

(1) ENFORCEMENT AUTHORITY.—

(A) INVESTIGATION OF COMPLAINTS.—

(i) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting any failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing thereon. If such a complaint is filed with section 556 of title 5, United States Code, not later than 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall conduct an investigation concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same labor standard, the Secretary of Labor shall consolidate the hearings under this clause on such complaints.

(ii) LIMITATIONS.—The Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing thereon. If such a complaint is filed with section 556 of title 5, United States Code, not later than 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall conduct an investigation concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same labor standard, the Secretary of Labor shall consolidate the hearings under this clause on such complaints.

(B) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under this section, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section.

(2) HARM TO AN H-2A WORKER BY PRIVATE RIGHT OF ACTION.—H-2A workers may enforce the following rights through the private right of action provided in paragraph (3), and no transaction affecting any other person shall be valid or enforceable. Nothing in this subsection shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under this section, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section.

(A) The providing of housing or a housing allowance as required under subsection (b)(2)(A).

(B) The reimbursement of transportation as required under subsection (b)(2)(B).

(C) The payment of wages required under subsection (b)(2)(C) when due.

(D) The benefits and material terms and conditions of employment expressly provided in the petition for admission of workers under paragraph (a)(1)(B), not including the assurance to comply with other Federal, State, and local labor laws described in subsection (b)(3), which shall be governed by the provisions of such laws.

(E) The guarantee of employment required under subsection (b)(2)(D).

(F) The reimbursement of any other provision of law.

(G) The prohibition of discrimination under paragraph (4)(B).

(2) PRIVATE RIGHT OF ACTION.—

(A) MEDIATION.—

(i) IN GENERAL.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under paragraph (2), and 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 reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the Federal Mediation and Conciliation Service shall conduct an investigation within the period specified in clause (ii).

(ii) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in the investigation disputes arising under paragraph (2) between H-2A workers and agricultural employers without charge to the parties.

(3) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

(4) AUTHORIZATION.—

(i) IN GENERAL.—Subject to subsection (II), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this subsection.

(ii) MEDIATION.—Notwithstanding any other provision of law, the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any funds appropriated pursuant to this subsection.

(5) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under paragraph (2) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of such matters, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any administrative remedy, under this section, not later than 3 years after the date the violation occurs.

(6) ELECTION.—An H-2A worker who files a complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) 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 paragraph shall be exclusive.

(D) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this section shall be
construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that any remedial or equitable action that may be available under any State contract law to enforce the rights created by this section.

(4) DISCRIMINATION PROHIBITED.—

(a) In General.—No discrimination is prohibited in the payment of wages, or in the providing of benefits, to an H-2A worker because of enrollment in a State workers' compensation program.

(b) Determination.—Any determination by the Secretary of the extent to which discrimination prohibited under paragraph (a) exists is final and conclusive for purposes of this section.

(c) Enforcement.—Any person who believes he has been discriminated against may bring a civil action in any Federal or State court of competent jurisdiction for such relief as may be appropriate.

(d) Settlement.—Any settlement of a claim under this section shall be conclusive as to the rights of the parties thereto.

(5) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

(i) If the court finds that the respondent has intentionally violated any of the rights enforceable under paragraph (2), it shall award actual damages, if any, or equitable relief.

(ii) Any civil action brought under this paragraph shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(6) WAIVER OF RIGHTS;

DATES OF ENFORCEMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the workers' compensation law of a State is applicable and coverage is provided for an H-2A worker, then the provisions of this section shall be the exclusive remedy for the loss of such worker under this subsection in the case of bodily injury or death, in accordance with such workers' compensation law.

(B) EXCLUSIVE REMEDY.—The exclusive remedy prescribed in clause (i) precludes the recovery of actual or equitable damages for any injury or death that occurs during the period for which such enforcement is pending under the State's workers' compensation law.

(C) PRECLUSION.—The exclusive remedy prescribed in clause (i) precludes the recovery of actual or equitable damages for any injury or death that occurs during the period for which such enforcement is pending under the State's workers' compensation law.

(D) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

(i) If the court finds that the respondent has intentionally violated any of the rights enforceable under paragraph (2), it shall award actual damages, if any, or equitable relief.

(ii) Any civil action brought under this paragraph shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(7) H-2A WORKER.—The term "H-2A worker" means a nonimmigrant described in section 218(b)(2)(E), with either employer described in such section at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepted the offer.

(8) JOB OPPORTUNITY.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(9) JOB OPPORTUNITY.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(10) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(11) SEASONAL.—Labor is performed on a seasonal basis if—

(A) it pertains to or is of the kind exclusively performed at seasonal or periodically;

(B) from its nature, it may not be continuous.

(12) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.
“(13) Temporary.—A worker is employed on a ‘temporary’ basis where the employment is intended not to exceed 10 months.

“(14) United States worker.—The term ‘United States worker’ means an unauthorized alien, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(i)(ii)(A).”

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 616. DETERMINATION AND USE OF USER FEES.

(a) Schedule of Fees.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this subtitle and the amendments made by this subtitle, and a collection process for such fees from employers participating in the program provided under this subtitle. Such fees shall be the only fees chargeable to employers for services provided under this subtitle.

(b) Determination of Schedule.—

(1) In General.—The schedule under subsection (a) shall be a fee schedule based on the number of job opportunities indicated in the employer’s application under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, and sufficient to provide for the direct costs of providing services related to an employer’s authorization to employ eligible aliens pursuant to this subtitle, including the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) Procedure.—

(A) In General.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) Publication and Comment.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a public hearing held.

(c) Use of Proceeds.—Notwithstanding any other provision of law, all proceeds resulting from the administration of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out subsections (a) and (c) of the Immigration and Nationality Act, as added by section 615 of this Act, and the provisions of this subtitle.

SEC. 617. REGULATIONS.

All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under this subtitle shall be issued not later than 1 year after the date of the enactment of this Act.

SEC. 618. REPORT TO CONGRESS.

Not later than September 30 of each year, the Secretary shall submit to Congress a report identifying, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 218(c)(1)(H)(ii)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(A)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to section 218(c)(5)(B) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218(c)(5)(C) of such Act;

(4) the number of aliens who applied for adjustment of status under section 245(a); and

(5) the number of such aliens whose status was adjusted under section 613(a);

(6) the number of aliens who applied for permanent residence pursuant to section 613(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 613(c).

SEC. 6195. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. 619. CONGRESS ON SOCIAL SECURITY BENEFITS FOR ILLEGAL IMMIGRANTS.

It is the sense of the Congress that—

(1) illegal immigrants should never receive Social Security benefits or federal funded cash welfare, nor should illegal aliens receive Social Security benefits based on unauthorized employment under any circumstances, and this prohibition should be strictly enforced; and

(2) identity theft should be prosecuted to the fullest extent of the law.

SEC. 6176. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. 618. RADIATION SOURCE PROTECTION.

(a) Tracking System.—Section 170H of the Atomic Energy Act of 1946 (42 U.S.C. 2210h) is amended—

(1) in subsection (c)—

(A) in paragraph (1)(B)—

(i) in the matter preceding paragraph (8)(B), by inserting “Secretary of Homeland Security”;

(ii) in the matter preceding paragraph (10)(B), by inserting “Secretary of Homeland Security”;

(iii) in paragraph (12), by inserting “Secretary of Homeland Security”;

(iv) in paragraph (13), by inserting “Secretary of Homeland Security”;

(B) by striking “Secretary of Commerce” and inserting “Secretary of Homeland Security”;

(C) by inserting “and the Secretary of Homeland Security shall cooperate with the Secretary of Commerce in the development of this system”, and

(D) by inserting “Secretary of Homeland Security”;

(2) (as added by section 101(a)(15)(H)(i)(ii)(A)) shall be considered a recordkeeping violation.

(b) Information Sharing.—The person hiring the alien shall provide to the employer, who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioner of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

(c) Reporting Requirement.—The employer shall submit to the Electronic Filing System under such subsection (d), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

SEC. 619. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) In General.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) Making Employment of Unauthorized Aliens Unlawful.—

(1) In General.—It is unlawful for an employer—

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

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

(2) Continuing Employment.—It is unlawful for an employer, after lawfully hiring an alien to employ the alien in the United States, knowingly to fail to comply with any requirement of subsection (a) with respect to such employment.

(3) Use of Labor Through Contract.—

(A) In General.—An employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing, or with reckless disregard, that the alien is an unauthorized alien with respect to such employment;

(i) that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A); or

(ii) that the person hiring such alien failed to comply with the requirements of subsections (c) and (d) shall be considered to have hired the alien in violation of paragraph (1)(B).

(B) Information Sharing.—The person hiring the alien shall provide to the employer, who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioneer of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (a)(3).

(C) Reporting Requirement.—The employer shall submit to the Electronic Filing System under such subsection (a)(3), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (a)(4).

(D) Investigation and Authorization.—The Secretary of Agriculture, the Secretary of Commerce, the Attorney General, the Secretary of Homeland Security, and the Secretary of Labor shall issue rules and regulations implementing this paragraph, setting forth such requirements, prohibitions, and standards as are necessary to carry out the purposes of this section.
“(D) Enforcement.—The Secretary shall implement procedures to utilize the information obtained under subparagraphs (B) and (C) to identify employers who use a contract, subcontract, or arrangement to obtain the hiring or recruitment of an alien from another person, where such person hiring such alien fails to comply with the requirements of subsections (c) and (d).

“(E) In General.—In general, the Secretary may require the employer to retain any document used for purposes of (A), such requirements, and procedures for the audit of any records related to such certification.

“(F) Order of Internal Review and Certification.—If the Secretary has reason to believe that an employer has failed to comply with clause (i) of subparagraph (A), the Secretary may, by notice to the employer, require the employer to take such action as may be necessary to come into compliance with such requirements.

“(G) Electronic Employment Verification System.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for employment in the United States.

“(H) Certification.—The employer shall certify that the employer is in compliance with this section, or has instituted a program to come into compliance with such requirements.

“(I) Authority to Require Certification.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary may, by notice to the employer, require the employer to take such action as may be necessary to come into compliance with such requirements.

“(J) Order of Internal Review and Certification.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary may, by notice to the employer, require the employer to take such action as may be necessary to come into compliance with such requirements.

“(K) Electronic Employment Verification System.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for employment in the United States.

“(L) Certification.—The employer shall certify that the employer is in compliance with this section, or has instituted a program to come into compliance with such requirements.

“(M) Authority to Require Certification.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary may, by notice to the employer, require the employer to take such action as may be necessary to come into compliance with such requirements.

“(N) Order of Internal Review and Certification.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary may, by notice to the employer, require the employer to take such action as may be necessary to come into compliance with such requirements.

“(O) Electronic Employment Verification System.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for employment in the United States.

“(P) Certification.—The employer shall certify that the employer is in compliance with this section, or has instituted a program to come into compliance with such requirements.
paragraph (2) to participate in the System on a voluntary basis; and

"(B) to require any employer or class of employers to participate on a priority basis in the System with respect to individuals employed as of, or hired after, the date of enactment of the Comprehensive Immigration Reform Act of 2006;"

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

"(4) REQUEST TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not later than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (5)(B)(v).

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

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

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

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

"(7) CONSEQUENCE OF FAILER TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an employee—

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

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

"(8) DESIGN AND OPERATION OF SYSTEM.—

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

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

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

"(B) INITIAL INQUIRY.—

"(I) INFORMATION REQUIRED.—A registered employer shall, with respect to the hiring, or recruitment for a fee, any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

"(II) the individual’s name and date of birth; and

"(III) the individual’s social security account number;

"(IV) in the case of an individual who does not attest that the individual is a national of the United States, subsection (c)(2), such alien identification or authorization number that the Secretary shall require,

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

"(ii) not later than 3 days after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

"(III) EIN REQUIREMENTS.—

"(B) INITIAL RESPONSE.—Not later than 10 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through any technology that is consistent with this section and any regulation or guidance from the Secretary, to the employer—

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

"(ii) if the System is unable to confirm the individual’s identity or eligibility for employment in the United States, a tentative nonconfirmation notice.

"(C) INITIAL CONFIRMATION.—If an employer receives a tentative confirmation notice under paragraph (B)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided through the System.

"(D) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (C)(ii) for an individual, the employer shall notify the individual—

"(i) of the tentative nonconfirmation notice; and

"(ii) that the employer has notified the System regarding the tentative nonconfirmation notice.

"(E) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—During the period beginning on the date the employer submits the initial report described in subparagraph (D)(ii), an automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

"(F) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (D)(ii), an automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

"(G) ADDITIONAL GUIDANCE.—A registered employer shall, in the form described in subsection (c)(1)(A)(i)—

"(i) provide to the employer, through the System, the appropriate code indicating a final notice.

"(H) PERIOD PRIOR TO INITIAL CERTIFICATION.—During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on the date the Secretary submits the initial report described in subparagraph (D)(ii), an automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

"(I) EFFECTIVE PERIOD OF FINAL NOTICE.—

"(i) A final confirmation notice issued under this paragraph for an individual shall remain in effect—

"(II) after the date the Secretary determines would assist the Secretary not later than 3 days after receiving the notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

"(iii) the appropriate code indicating a final nonconfirmation notice.

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

"(K) CONSEQUENCES OF NONCONFIRMATION.—

"(i) If the employer has received a final nonconfirmation notice regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such notice shall provide all information relating to the individual that the Secretary determines would assist the individual; or

"(ii) the individual was not employed in the United States during the period described in clause (i) or was subsequently employed as of, or hired after, the date of enactment of the Comprehensive Immigration Reform Act of 2006; or

"(iii) the individual is not eligible for employment in the United States; or

"(iv) such notice is not issued within the 30-day period described in clause (v)(ii), the Secretary shall maintain such individual was not employed in the United States with respect to such individual during the period described in clause (v)(ii).

"(L) RECORD OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is the means through the System to indicate a final confirmation notice or final nonconfirmation notice.
Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

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(2) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—
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(i) IN GENERAL.—The Commissioner of Social Security shall establish a reliable, secure, and efficient database to provide information to the Secretary and the Commission of Labor Statistics. The database shall include information on the following:

(A) The employer's name and address.

(B) The employer's identification number.

(C) The employer's prior identification number, if any.

(D) The employer's contact information.

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(3) COMPLAINTS.—The Secretary shall accept complaints from individuals who believe they have been discriminated against because of their national origin, race, color, sex, religion, or other characteristics.
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(4) DETERMINATION 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 180 days after completion of the administrative review process described in this paragraph. Compensation shall be based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

(B) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall be from funds appropriated for the purpose of compensating for wages lost by the individual as a result of an employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

(C) ADMINISTRATIVE REVIEW.—(A) In general.—If the Secretary determines that the System is able to correctly issue a final nonconfirmation notice, a certification of such subclause, a final no-

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(2) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—
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(i) IN GENERAL.—The Commissioner of Social Security shall develop a mechanism for the responsible implementation of this section, and annually thereafter, the Secretary shall submit to Congress a report that includes:

(A) A description of the System and the procedures utilized by the System; or

(B) Procedures.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subsection (f) to make final determinations on such appeals.

(C) REVIEW FOR ERRORS.—If a final determination on an appeal made under subparagraph (D)(v)(II) results in a confirmation notice issued for the individual was the result of—

(1) an error or negligence on the part of an employee or official operating or responsible for the System;

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

(3) erroneous system information that was not the result of acts or omissions of the individual.

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(3) COMPENSATION FOR ERROR.—(A) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that an individual’s eligibility to work in the United States, the administrative review process shall require the System to determine whether the individual was the result of that administrative review, file an appeal of such notice.
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(4) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (1) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.
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(5) IN GENERAL.—The System shall collect and maintain only the necessary to facilitate the successful operation of the System, and in no case shall the data be used other than—
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(6) INFORMATION NECESSARY TO REGISTER EMPLOYERS.—(1) The individual may obtain judicial review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

(B) LIMITATION ON USE OF DATA.—(1) LIMITATION ON COLLECTION OF DATA.—(A) IN GENERAL.—The System shall collect and maintain only the necessary to facilitate the successful operation of the System, and in no case shall the data be used other than—

(2) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (1) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.

(C) EXCEPTIONS.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

(D) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to collection of forms, methods of protection, ensuring the efficiency, accuracy, and security of the System.
``(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

``(B) PURPOSE.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

``(C) REPORT.—Not later than the date that is 24 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

``(i) An assessment of the annual report and certification described in paragraph (8)(E)(i).

``(ii) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in paragraph (8), including a separate assessment of such rate for nationals and aliens.

``(iii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

``(iv) An assessment of the effects of the System on the employment of unauthorized aliens.

``(v) An assessment of the effects of the System, including the effects of tentative findings, on unfair immigration-related evidence and employment discrimination based on national origin or citizenship status.

``(vi) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

``(e) COMPLIANCE.—

``(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

``(A) for individuals and entities to file complaints regarding potential violations of subsection (a); and

``(B) for the investigation of other violations of subsection (c) that the Secretary determines are appropriate to investigate; and

``(C) for the investigation of other violations of subsection (d) that the Secretary determines are appropriate.

``(2) AUTHORITY IN INVESTIGATIONS.—

``(A) IN GENERAL.—In conducting investigations under this subsection, the Secretary may—

``(i) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

``(B) FAILURE TO COOPERATE.—In case of refusal or failure by any person lawfully issued a subpoena to obey such order, the Secretary may bring a civil action in the appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for court costs of payment of fines and penalties that may be recovered, and to order the grant of security acceptable to the Secretary.

``(7) RECOVERY OF COSTS AND ATTORNEY'S FEES.—In any appeal before paragraph (5) or suit brought under paragraph (6) of this section the employer shall be entitled to recover from the Secretary reasonable costs and attorney's fees if such employer substantially prevails on the merits of the case. Such an award of attorney's fees may not exceed $25,000. Any such costs and attorney's fees assessed against the Secretary shall be charged against the operating expenses of the Department for the fiscal year in which such costs and fees were awarded and may not be reimbursed from any other source.

``(8) ADJUSTMENT FOR INFLATION.—All penalties, fines, and other requirements of this section shall be increased every 3 years beginning January 2010 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 12-month period ending with the 48-month period preceding December 2009.
is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

‘(b) PROHIBITION.—If an employer fails to provide a written request by the Secretary of Homeland Security...’

‘(1) A determination of whether the name, date of birth, employer identification number, and social security account number of an individual are related to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of such information.

‘(II) A determination of whether the name and number block is in accordance with clause (ii) and the confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

‘(iii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

‘(d) The Commissioner of Social Security shall, subject to the provisions of section 205(c)(2) of the Social Security Act of 2006, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the ‘System’), within the time periods required by paragraph (8) of such subsection—’

‘(i) A determination of the validity of the name, date of birth, employer identification number, and social security account number of an individual...’

‘(II) A determination of whether the name and number block is in accordance with clause (ii) and the confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

‘(iii) The Commissioner of Social Security...’

‘(IV) a determination of whether the name and number block is in accordance with clause (ii) and the confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

‘(v) The Commissioner of Social Security...’

‘(A) IN GENERAL.—From taxpayer identity information that the alien is not at that time either—’

‘(B) in subsection (g)(2)(B)(ii), by striking “274A(b)” and inserting “274A(d)”;

‘(C) TECHNICAL AMENDMENTS.—’

‘(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTIFICATION INFORMATION.—’

‘(A) IN GENERAL.—’

‘(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—’

‘(A) in subsections (a)(6) and (g)(2)(B), by striking “274A(b)” and inserting “274A(d)”;

‘(B) in subsection (g)(2)(B)(ii), by striking “274A(b)(5)” and inserting “274A(d)”;

‘(C) TECHNICAL AMENDMENTS.—’

‘(1) DISCLOSURE OF UNAUTHORIZED ALIEN.—’

‘(2) DISCLOSURE OF CERTAIN TAXPAYER IDENTIFICATION INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—’

‘(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:’

‘(i) DISCLOSURE OF EMPLOYEE NO-MATCH NOTICES.—Taxpayer identity information of
each person who has filed an information return required by reason of section 6051 during calendar year 2006, 2007, or 2008 which contains—

(1) more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

(2) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

(3) Reason to believe receipt of information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

(ii) INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

(iii) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

The certification required by subparagraph (A) only for purposes of, and to the extent necessary in—

(i) establishing and enforcing employer participation in the System,

(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 5315, and 5316, information concerning the Immigration and Nationality Act, and

(iii) the civil operation of the Alien Ter-}

orist Removal Court.

(c) NEW HIRE TAXPAYER IDENTIFICATION INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) hired after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

The certification required by subparagraph (A) shall be used to enforce compliance with such requirements, the certification required by subparagraph (B) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.

(a) IN GENERAL.—The amendments made by subsection (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(b) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner’s responsibilities in this title or the amendments made by this title, but only to the extent the Commissioner has provided, in advance, funding for carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Disability Insurance Trust Fund be used to carry out such responsibilities.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

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(b) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner’s responsibilities in this title or the amendments made by this title, but only to the extent the Commissioner has provided, in advance, funding for carrying out such responsibilities.

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(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

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(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(b) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner’s responsibilities in this title or the amendments made by this title, but only to the extent the Commissioner has provided, in advance, funding for carrying out such responsibilities.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.
on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(i) SA 4179. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and law enforcement for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 3. ACCESS FOR SHORT-TERM STUDY.

(a) REDUCED FEE FOR SHORT-TERM STUDY.—

(1) IN GENERAL.—Section 611(c)(4)(A) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1324b(c)(4)) is amended by inserting ''the fee imposed on any individual who may not exceed $100'', except that the case of an alien admitted under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), as a counselor, a participant in a summer work travel program, the fee shall not exceed $35; and that in the case of an alien admitted under subparagraph (B) of section 101(a)(15) for a program that will not exceed 90 days, the fee shall not exceed $35.''

(2) TECHNICAL AMENDMENTS.—Such section 611(c)(4)(A) is further amended—

(A) in the first sentence, by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) in the third sentence, by striking ''Attorney General's'' and inserting ''Secretary's''.

(b) RECREATIONAL COURSES.—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Secretary of State shall not exceed $35.\n
(c) LANGUAGE TRAINING PROGRAMS.—

(1) REQUIREMENT FOR ACCREDITATION.—Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1324b(f)(1)) is amended by striking ''language'' and inserting ''an accredited language''.
(d) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

(A) the amount appropriated for payments under this part for the year under section 296; and

(B) an amount equal to—

(i) the total voting age population of the State (as reported in the most recent decennial census); divided by

(ii) the total voting age population of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

(2) SEC. 298. AUTHORIZATION OF APPROPRIATIONS.—

(a) IN GENERAL.—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated such sums as are necessary for the purpose of making payments under section 297.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

SEC. 299. EXCLUSION OF ILLEGAL ALIENS FROM CONGRESSIONAL APPOINTMENT TABULATIONS.

In addition to any support under this act the Director of the Bureau of Census shall submit to Congress a report on the impact of illegal immigration on the apportionment of Representatives among the several States, and any methods and procedures that the Director determines to be feasible and appropriate, to ensure that individuals who are found by an authorized Federal agency to be unlawfully present in the United States are not counted in tabulating population for purposes of apportionment of Representatives in Congress among the several States.

SEC. 300. REFORM OF THE DIVERSITY VISA PROGRAM.

(a) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting “and immigrants with advanced degrees” after “diversity immigrants”; and

(2) by adding subsection (e) to read as follows:

WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

(1) DIVERSITY IMMIGRANTS.—The worldwide level of immigrants described in section 203(c)(1) is equal to 65,000 for fiscal year 2008.

(2) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “paragraph (2)” and inserting “subsection (b)”; and

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

(2) ALIENS WHO HOLD AN ADVANCED DEGREE OR A FOREIGN DEGREE.—

(A) IN GENERAL.—Qualified immigrants who hold a master’s or doctoral degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, may reestablish, to the extent of which the degrees described in subparagraph (A) provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.

(C) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

(3) IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1153(c)) is amended—

(B) by redesignating paragraph (3) as paragraph (4) and

(C) by inserting after paragraph (2) the following:

(3) Immigrant visas made available under subsection (b) shall not exceed the worldwide level specified in section 201(e)(2).

SEC. 301. SECURE AUTHORIZED FOREIGN EMPLOYEE VISA PROGRAM.

(a) AUTHORIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall, subject to the numeric limits under subsection (c), award a SAFE visa to each alien who is a national of a NAFTA or CAFTA-DR country and who meets the requirements under subsection (b), to perform services in the United States in accordance with this section.

(b) REQUIREMENTS FOR ADMISSION.—An alien is eligible for a SAFE visa under this section if—

(1) the alien has a residence in a NAFTA or CAFTA-DR country, which the alien has no intention of abandoning;

(2) applies for an initial SAFE visa while in the alien’s country of nationality;

(3) establishes that the alien has received a job offer from an employer who has complied with the requirements under subsection (c); and

(4) undergoes a medical examination (including a determination of immunization status), at the alien’s expense, that conforms to generally accepted standards of medical practice;

(5) passes all appropriate background checks, as determined by the Secretary of Homeland Security;

(6) submits a completed application, on a form designed by the Secretary of Homeland Security; and

(7) pays a visa issuance fee, in an amount determined by the Secretary of State to be equal to not less than the cost of processing and adjudicating such application.

(c) EMPLOYER RESPONSIBILITIES.—An employer seeking to hire a national of a NAFTA or CAFTA-DR country under this section shall—

(1) submit a request to the Secretary of Labor for a certification under subsection (d) that there is a shortage of workers in the occupational classification and geographic area for which the foreign worker is sought;

(2) submit to each foreign worker a written employment offer that sets forth the nature of the job, the rate of pay at a rate that is not less than the greater of—

(A) the prevailing wage for such occupational classification in such geographic area; or

(B) the applicable minimum wage in the State in which the worker will be employed;

(3) provide the foreign worker one-time transportation from the country of origin to the place of employment and from the place of employment to the country of origin, the cost of which may be deducted from the worker’s pay under an employment agreement; and

(4) withhold and remit appropriate payroll deductions to the Internal Revenue Service.

(d) LABOR CERTIFICATION.—Upon receiving a request from an employer under subsection (c), the Secretary of Labor shall—

(1) determine if there are sufficient United States workers who are able, willing, qualified, and available to fill the position in which the alien is, or will be employed, based on the occupational classification and geographic area for which the foreign worker is sought; and

(2) if the Secretary determines under paragraph (1) that there are insufficient United States workers, provide the employer with labor shortage certification for the occupational classification for which the worker is sought.

(e) PERIOD OF AUTHORIZED ADMISSION.—

(1) DURATION.—A SAFE visa may remain in the United States for not longer than 10 months during the 12-month period for which the visa is issued.

(2) RENEWAL.—A SAFE visa may be renewed for additional 10-month work periods under the requirements described in this section.
to apply for legal permanent residence or a United States. paragraph shall be required to leave the United States.

provision to country of origin.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has reestablished the SAFE visa and returned to the worker's country of origin.

Failure to comply.—If a SAFE visa worker fails to comply with the terms of the SAFE visa, the worker will be permanently ineligible for the SAFE visa program.

Evidence of nonmigrant status.—Each SAFE visa worker shall be issued a SAFE visa and the following:

(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;
(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement; and
(3) shall, during the alien's authorized period of admission under subsection (e), serve as a valid entry document for the purpose of entering the United States.

Social security contributions.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

Employer visa program.—Upon request, a SAFE visa worker shall receive the total employee portion of the Social Security contributions withheld from the worker's pay. Any worker who receives such contributions shall be permanently ineligible to renew a SAFE visa under subsection (e)(2).

Medicare.—Amounts withheld from the workers' pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

Political asylum.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for permanent resident status or a path to United States citizenship.

Numerical limits.—Numerical limits.—Except as provided under paragraphs (2) and (3), the number of SAFE visas authorized under this section shall not exceed 200,000 per fiscal year.

Waiver.—The President may waive the limit under paragraph (1) for a specific fiscal year by determining that additional foreign workers are needed in that fiscal year.

Incremental adjustments.—If the President certifies that additional foreign workers are needed in a specific year, the Secretary of State may increase the number of SAFE visas available in that fiscal year by the number of additional workers certified under paragraph (2).

Congressional oversight.—The President shall transmit to Congress all certifications authorized in this section.

SAFE visas during a fiscal year.—Not more than 50 percent of the total number of SAFE visas available in each fiscal year may be allocated to aliens who are lawfully admitted to the United States pursuant to such visa during the first 6 months of such fiscal year.

Definitions.—In this section:

(i) Definitions.—In this section:

(A) NAFTA or CAFTA–DR country.—The term 'NAFTA or CAFTA–DR country' means any country (except for the United States) that has signed the North American Free Trade Agreement or the Central American–Dominican–United States Free Trade Agreement.

(B) SAFE visa.—The term 'SAFE visa' means a visa authorized under this section.

(c) Blue card program.—

(1) Work day defined.—Notwithstanding paragraph (7) of section 612 of this Act, for purposes of this Act, the term ‘work day’ shall mean any day in which the individual is employed 8 or more hours in agriculture.

(2) Definitions.—The definitions of terms defined in section 612 of this Act, as applied by subsection (a), shall apply to such terms in this section.

(3) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(4) Authorization of blue card program.—

(A) Work day defined.—Notwithstanding paragraph (7) of section 612 of this Act, for purposes of this Act, the term ‘work day’ shall mean any day in which the individual is employed 8 or more hours in agriculture.

(B) Definitions.—The definitions of terms defined in section 612 of this Act, as applied by subsection (a), shall apply to such terms in this section.

(5) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(6) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(7) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(8) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(9) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(10) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(11) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(12) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(13) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.

(14) Authorization of blue card program.—An alien in blue card status may be terminated from employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005; or applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and shall, during the alien's authorized period of admission under section 218(h), serve as a valid entry document for the purpose of entering the United States.
Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fees and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) Arbitration Proceedings.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make a determination whether the termination was just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the employee.

(e) Adjustment to Permanent Residence.—

(i) Agricultural Workers.—

(A) In General.—Except as provided in subparagraph (B), the Secretary shall adjust the alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) Qualifying Employment.—The alien has performed at least:

(I) 5 years of agricultural employment in the United States, for at least 100 workdays or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 workdays or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(B) Record of Employment.—The record of employment described in paragraph (i)(I) shall be conclusive and final and not subject to review.

(C) Civil Penalties.—

(i) In General.—If the Secretary finds, after a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (c)(5), the employer shall be subject to civil penalties for such failure to provide records.

(ii) Penalty Amount.—Any employer of an alien granted blue card status who fails to provide the record of employment required under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(i) Adjustments to Permanent Residence.—

(1) Agricultural Workers.—

(A) In General.—Except as provided in subparagraph (B), the Secretary shall adjust the alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) Qualifying Employment.—The alien has performed at least:

(I) 5 years of agricultural employment in the United States, for at least 100 workdays or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 workdays or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(B) Record of Employment.—The record of employment described in paragraph (i)(I) shall be conclusive and final and not subject to review.

(C) Civil Penalties.—

(i) In General.—If the Secretary finds, after a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (c)(5), the employer shall be subject to civil penalties for such failure to provide records.

(ii) Penalty Amount.—Any employer of an alien granted blue card status who fails to provide the record of employment required under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(D) Adjustment to Permanent Residence.—

(i) Agricultural Workers.—

(A) In General.—Except as provided in subparagraph (B), the Secretary shall adjust the alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) Qualifying Employment.—The alien has performed at least:

(I) 5 years of agricultural employment in the United States, for at least 100 workdays or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 workdays or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

B) Record of Employment.—The record of employment described in paragraph (i)(I) shall be conclusive and final and not subject to review.

(C) Civil Penalties.—

(i) In General.—If the Secretary finds, after a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (c)(5), the employer shall be subject to civil penalties for such failure to provide records.

(ii) Penalty Amount.—Any employer of an alien granted blue card status who fails to provide the record of employment required under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.
shall establish special procedures to properly
mentation and Nationality Act, Public Law 89–732,
section 209, 210, or 245 of the Immigration-
have substantial experience, demonstrate
the Secretary determines are qualified and
organizations and associations of employers;
and
(i) shall designate qualified farm labor or-
izations and associations of employers; and
(ii) may designate such other persons as
the Secretary determines are qualified and
have substantial experience, demonstrate
competence, and have traditional long-term involvement in the preparation and sub-
mission of applications for adjustment of status
under section 209, 210, or 245 of the Immigra-
tion and Nationality Act, Public Law 89–732,
and the Immigration Re-

(A) IN GENERAL.—For purposes of receiving
applications under subsection (c), the Sec-

retary, or any other official or employee
of the Department, or a bureau or agency of
the Department, may—

(i) use the information furnished by the
application for (or in relation to) an application
filed under this section, the information provided
to the applicant by a person designated under
paragraph (2)(A), or any information
obtained from an employer, or the former
employer, for any purpose other than to make a deter-
mination on the application, or for enforce-
ment of paragraph (7);

(ii) make an examination whereby the in-
formation furnished by any particular indi-
cidual can be identified; or

(iii) permit any person than the sworn
officers and employees of the Department, or
a bureau or agency of the Department, or,
with respect to applications filed with a
qualified designated entity, to examine individual
applications.

(B) REQUIRED DISCLOSURES.—The Secretary
shall provide the information furnished under
this section, or any other information
derived from such furnished information,
to—

(i) a duly recognized law enforcement enti-

ty in connection with a criminal investiga-
tion or prosecution, if such information is
requested in writing by such entity; or

(ii) an official coroner, for purposes of af-


(A) IN GENERAL.—An alien may establish
that the alien meets the requirement of sub-
section (c)(1)(A) or (e)(1)(A) through govern-
ment employment records or records sup-
plied by employers or collective bargaining
organizations; or for reliable determina-
tion as the alien may provide. The Secretary
shall establish special procedures to properly
credit work in cases in which an alien
was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying
for status under subsection (c)(1)(A) has the
burden of proving by a preponderance of
the evidence that the alien has worked the
required number of hours or days (as re-
quired under subsection (c)(1)(A) or (e)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an
employer or farm labor contractor employ-
ing such an alien has kept proper and ade-
quate records respecting such employment,
the alien’s burden of proof under clause (i)
may be met by securing timely production
of those records under regulations to be
pro-
mulged by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can
meet the burden of proof under clause (i) to
establish that he or she has performed
the work described in subsection (c)(1)(A) or
(e)(1)(A) by producing sufficient evidence to
show the extent of that employment as a
matter of reliable information.

(4) TREATMENT OF APPLICATIONS BY QUALI-
FYING DESIGNATED ENTITIES.—Each qualified
designated entity shall assist the alien in ob-
taining documentation of the work history
of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—

Files and records prepared for purposes of
this subsection by qualified designated enti-
ties operating under this subsection are
confidential and the Secretary shall not have access to such records relating to the
alien without the consent of the alien, ex-
cept as allowed by a court order issued pur-
suant to paragraph (6).

(6) EFFECTS OF FILING FALSE INFORMATION.—

(A) IN GENERAL.—Except as otherwise pro-
vided in this subsection, neither the Sec-

etary, nor any other official or employee
of the Department, or a bureau or agency of
the Department, may—

(i) use the information furnished by the
application for (or in relation to) an application
filed under this section, the information provided
to the applicant by a person designated under
paragraph (2)(A), or any information
obtained from an employer, or the former
employer, for any purpose other than to make a deter-
mination on the application, or for enforce-
ment of paragraph (7);

(ii) make an examination whereby the in-
formation furnished by any particular indi-
cidual can be identified; or

(iii) permit any person than the sworn
officers and employees of the Department, or
a bureau or agency of the Department, or,
with respect to applications filed with a
qualified designated entity, to examine individual
applications.

(B) REQUIRED DISCLOSURES.—The Secretary
shall provide the information furnished under
this section, or any other information
derived from such furnished information,
to—

(i) a duly recognized law enforcement enti-

ty in connection with a criminal investiga-
tion or prosecution, if such information is
requested in writing by such entity; or

(ii) an official coroner, for purposes of af-


(A) IN GENERAL.—An alien may establish
that the alien meets the requirement of sub-
section (c)(1)(A) or (e)(1)(A) through govern-
ment employment records or records sup-
plied by employers or collective bargaining
organizations; or for reliable determina-
tion as the alien may provide. The Secretary
shall establish special procedures to properly
credit work in cases in which an alien
was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying
for status under subsection (c)(1)(A) has the
burden of proving by a preponderance of
the evidence that the alien has worked the
required number of hours or days (as re-
quired under subsection (c)(1)(A) or (e)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an
employer or farm labor contractor employ-
ing such an alien has kept proper and ade-
quate records respecting such employment,
the alien’s burden of proof under clause (i)
may be met by securing timely production
of those records under regulations to be
pro-
mulged by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can
meet the burden of proof under clause (i) to
establish that he or she has performed
the work described in subsection (c)(1)(A) or
(e)(1)(A) by producing sufficient evidence to
show the extent of that employment as a
matter of reliable information.

(4) TREATMENT OF APPLICATIONS BY QUALI-
FYING DESIGNATED ENTITIES.—Each qualified
designated entity shall assist the alien in ob-
taining documentation of the work history
of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—

Files and records prepared for purposes of
this subsection by qualified designated enti-
ties operating under this subsection are
confidential and the Secretary shall not have access to such records relating to the
alien without the consent of the alien, ex-
cept as allowed by a court order issued pur-
suant to paragraph (6).

(6) EFFECTS OF FILING FALSE INFORMATION.—

(A) IN GENERAL.—Except as otherwise pro-
vided in this subsection, neither the Sec-
may not apply for such status until the begin-
ing of such period, until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—
(A) may not be removed; and
(B) shall be granted authorization to en-
gage in employment in the United States and be provided an “employment author-
ized” endorsement or other appropriate work permit for such purpose.
(2) ADMINISTRATIVE REVIEW.—The Sec-
retary shall provide that, in the case of an alien who presents a nonfrivolous applica-
tion for blue card status during the applica-
tion period described in subsection (a), including an alien who files such an application within 30 days of the alien’s apprehen-
sion, and until a final determination on the application has been made in accordance with this section, the alien—
(A) may not be removed; and
(B) shall be granted authorization to en-
gage in employment in the United States and be provided an “employment author-
ized” endorsement or other appropriate work permit for such purpose.
(a) APPLICATION OF OTHER PROVISIONS.—
Section 613 of this Act is null and void.
SEC. 163. CONFIDENTIALITY OF INFORMATION SUBMITTED TO EARNED MIGRATION STATUS.
Notwithstanding section 601(b) of this Act, subsection (e) of section 245B of the Immi-
gration and Nationality Act, as added by such section 601(b), is amended to read as fol-
Iows:
(e) CONFIDENTIALITY OF INFORMATION.—
(1) IN GENERAL.—Except as provided in paragraph (2) or (3) or as otherwise provided in this section, or pursuant to written waiver of the applicant or order of a court of com-
petent jurisdiction, no agency or bureau, or any officer or employee of such agency or bureau, may—
(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a deter-
nation on the application;
(B) make any publication through which the information furnished by any particular applicant can be identified; or
(C) permit anyone other than the sworn officer, and each agency, bu-
reau, or approved entity, as approved by the Secretary of Homeland Security, to examine
information furnished pursuant to such application, and any other information derived from such furnished information, to—
(1) a duly recognized law enforce-
ment entity in connection with a criminal investiga-
tion or prosecution or a national security in-
vestigation or prosecution, in each instance
about an individual suspect or group of sus-
psects, where the information is requested by
such entity; or
(2) an official coroner for purposes of af-
firmatively identifying a deceased indi-
vidual, whether or not the death of such indi-
vidual resulted from a crime.
(3) INAPPLICABILITY AFTER DENIAL.—The
limitation under paragraph (1)—
(A) shall apply only until an application
filed under paragraph (1) or (2) of subsection (a) is denied and all opportunities for appeal of the denial have been exhausted;
(B) shall not apply to use of the informa-
tion furnished pursuant to such application
in any removal proceeding or other criminal or civil action relating to an alien
whose application has been denied; and
(C) shall not apply where the information is requested that is based upon any violation of law committed or discovered after such grant.
(4) CRIMINAL PENALTY.—Any person who
knowingly uses, publishes, or permits infor-
mation to be examined in violation of this
subsection shall be fined not more than
$10,000.
SEC. 164. EFFECTIVE DATE FOR NEW NON-
IMMIGRANT TEMPORARY WORKER CATEGORIES.
Notwithstanding section (b) of section 402 of this Act, the amendments made by
subsection (a) of such section 402 shall take effect on the date that is 18 months after the
date that a total of not less than $400,000,000 has been appropriated and made available to the Secretary to implement the Electronic
Employment Verification System estab-
lished under section 274A(d) of the Immigration and Nationality Act, as amended by section
301(a) of this Act, with respect to aliens, respectively.
(b) Numerical limitation.
SEC. 165. ELIGIBILITY FOR THE EARNED INCOME TAX CREDIT.
Notwithstanding section 601(b) of this Act, subsection (g) of section 245B of the Immi-
gration and Nationality Act, as added by such section 601(b), is amended to read as fol-
Iows:
(g) ELIGIBILITY FOR PUBLIC BENEFITS.—
For purposes of section 469 of the Personal Responsibility and Work Op-
portunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien who is unlawfully present in the United States, or an alien who receives an adjust-
ment of status under subsection (n) of sec-
tion 245 who was illegally present in the United States prior to January 7, 2004, this section, section 245C, or section (e) of the Comprehensive Immigration Re-
form Act of 2006, shall not be eligible for the Earned In-
come Tax Credit. With respect to benefits other than the Earned Income Tax Credit, an alien aliens may receive under this section and the
requirements to be satisfied to obtain such
benefits may be determined by the Secretary of State, in cooperation with qualified des-
ignated entities, shall broadly disseminate
information respecting the benefits that
aliens may receive under this section and the
requirements to be satisfied to obtain such
S5025
May 23, 2006
CONFERENCE REPORT—SENATE

SA 4181. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was or-
dered to lie on the table; as follows:
At the end of the amendment add the fol-
lowing:
Notwithstanding any other provisions of this act the language in Title V Sec. 501 under the heading “(2) VISAS FOR SPOUSES AND CHILDREN” is null and void and the fol-
lowing shall be applicable in lieu thereof:
“(2) VISAS FOR SPOUSES AND CHILDREN.—
(A) IN GENERAL.—Except as provided in
paragraph (B), immigrant visas issued on or after October 1, 2004 to an alien who is a child-
ren of employment-based immigrants shall not be counted against the numerical limita-
tion set forth in paragraph (1).
(B) NUMERICAL LIMITATION.—The total
number of visas issued under paragraph (1)
and paragraph (2), excluding such visas
issued to aliens pursuant to section 245B or
section 245C of the Immigration and Nation-
ality Act, may not exceed 650,000 during any fiscal year.
(C) CONSTRUCTION.—Nothing in this para-
graph may be construed to require the time of
petition set out in 245B(a)(1)(I) or
245C(1)(1)(A) that prohibit an alien from re-
ceiving an adjustment of status to that of a lawful permanent resident.
(D) CONSIDERATION.—Considera-
tion of all applications filed under section
201, 202, or 203 before the date of enactment
of section 245B and 245C.
SA 4182. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was or-
dered to lie on the table; as follows:
At the end of the amendment add the fol-
lowing:
Notwithstanding any other provisions of this act the language in Title V Sec. 501 under the heading “(2) VISAS FOR SPOUSES AND CHILDREN” is null and void and the fol-
lowing shall be applicable in lieu thereof:
“(2) VISAS FOR SPOUSES AND CHILDREN.—
(A) IN GENERAL.—Except as provided in
paragraph (B), immigrant visas issued on or after October 1, 2004, to spouses and chil-
dren of employment-based immigrants shall not be counted against the numerical limita-
tion set forth in paragraph (1).
(B) NUMERICAL LIMITATION.—The total
number of visas issued under paragraph (1)
and paragraph (2), excluding such visas
issued to aliens pursuant to section 245B or
NOTICE OF HEARING
COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, June 1st, 2006 at 9:30 a.m. in the Grand Junction City Hall Auditorium located at 250 North 5th Street in Grand Junction, Colorado.

The purpose of the hearing is to receive testimony on the implementation of the oil shale provisions of the Energy Policy Act of 2005.

Because of the limited time available for the hearing, witnesses may testify by invitation only. Those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Dick Bouts at 202-224-7545 or Sara Zecher at 202-224-8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 23, 2006, at 10 a.m., to conduct a hearing on “Improving Financial Literacy in the United States.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 23, 2006, at 10 a.m. on price gouging.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 23 at 10 a.m.


The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a Business Meeting on May 23, 2006 at 9:30 a.m. to consider the following agenda:

S. 2735 To amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes.

S. 2632 The Appalachian Regional Development Act Amendments of 2006.

S. 2430 Great Lakes Fish and Wildlife Restoration Act of 2006 with amendment.

S. 1509 Captive Primate Safety Act.

S. 2041 Ed Fountain Park Expansion Act.

S. 2127 To redesignate the Mason Neck National Wildlife Refuge in the state of Virginia as the “Elizabeth Hartwell Mason Neck National Wildlife Refuge”.

S. Res. 301 Commemorating Audubon Society’s 100th Anniversary with amendment.


S. 2650 To designate the Federal courthouse site constructed in Greenville, South Carolina, as the “Carroll A. Campbell, Jr. Federal Courthouse.”

S. 801 To designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the “John Milton Bryan Simpson United States Courthouse.”

S. 2784 Great Lakes Coordination and Oversight Act of 2006.

S. 2023 To amend the oil pollution act of 1990 to improve that act, and for other purposes.

GS Resolutions: To authorize the majority of the General Services Administration’s FY 2007 Capital Investment and Leasing Program; To authorize seven new courthouse construction projects.

Army Corps Study Resolutions: Committee Resolution on Cedar River, Time Check Area, Cedar Rapids, Iowa; Committee Resolution on Pawcatuck River, Little Narragansett Bay, and Watch Hill, Rhode Island and Connecticut; Committee Resolution on Kansas River Basin, Kansas, Colorado, and Nebraska; and Committee Resolution on Port of San Francisco, San Francisco, California.

Nominations: Molly O’Neill to be an Assistant Administrator—EPA; Dr. Dale Klei to be a member of the Nuclear Regulatory Commission; Dr. Gregory Jaczko to be a member of the Nuclear Regulatory Commission; and Mr. Peter Lyons to be a member of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, May 23, 2006, at 2:30 p.m. in 215 Dirksen Senate Office Building, to hear testimony on “Encouraging Economic Self-Determination in Indian Country.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 23, 2006, at 2:15 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 23, 2006, at 2:30 p.m. to hold a closed mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on “Perspectives on Patents: Post-Grant Review Procedures and Other Litigation Reforms” on Tuesday, May 23, 2006, at 2 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List: Panel I: Andrew Cadel, Managing Director, Associate General Counsel and Chief Intellectual Property Counsel, JP Morgan Chase, New York, NY; Philip S. Johnson, Chief Patent Counsel, Johnson & Johnson, New Brunswick, NJ; Nathan P. Myhrvold, Chief Executive Officer, Intellectual Ventures, Bellevue, WA; John R. Thomas, Professor of Law, Georgetown University Law Center, Washington, DC; and Mark Chandler, Senior Vice President and General Counsel, Cisco Systems, Inc., San Jose, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Tod Bowman, a member of my staff, be granted floor privileges for the duration of today’s session.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Bob Menendez be permitted to debate the motion to reconsider S. 2040.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mark Obenshain be granted floor privileges to debate the motion to reconsider S. 2040.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Todd Bowman, a member of my staff, be granted floor privileges for the duration of today’s session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Dr. Robert Brown be granted floor privileges to debate the motion to reconsider S. 2040.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Roland B. Burris, a clerk for the Senate, be granted floor privileges for the duration of today’s session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Myra Hernandez, a brieferman for the Senate, be granted floor privileges for the duration of today’s session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Carol Wolchak, an attorney on my staff, be granted floor privileges for the remainder of this bill.