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. GREGG) 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. MIKULSKI, 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. LUGAR, and Mr. SALAZAR) 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. 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 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. 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 4140. Mr. DOMENICI (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 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.

SA 4142. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, supra.

SA 4143. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4144. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4145. 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 4146. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4147. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4148. Mr. KENNEDY (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4149. 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 4150. 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 4151. 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 4152. 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 4153. 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 4154. 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 4155. 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 4156. 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 4157. 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 4158. 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 4159. 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 4160. 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 4161. 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 4162. 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 4163. 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 4164. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4165. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4166. Mr. BYRD (for himself and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4167. Mr. COLEMAN (for himself, Mr. DORGAN, Ms. COLLINS, Mrs. MURRAY, Ms. CANTWELL, Ms. SNOWE, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4168. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4169. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4170. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4171. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4172. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4173. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4174. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4175. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4176. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4177. Mr. GRASSLEY (for himself, Mr. OBAMA, Mr. BAUCUS, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, supra.

SA 4178. Mr. BAUCUS (for himself, Mr. CRAIG, Ms. CANTWELL, and 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 4179. 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 4180. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4181. 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 4182. 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.

TEXT OF AMENDMENTS

SA 4108. Mr. SESSIONS 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:

On page 364, line 22, after ''an'' insert the following: ''alien who is unlawfully present in the United States, or an alien receiving adjustment of status under section 408(h) 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:

On page 295, line 10, strike available, and insert—''available, subject to the numerical limitations in sections 201(d) and 203(b)

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. 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.''.

(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 4111. 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:

SEC. . LIMITATION.

(a) The total number of aliens and dependents of such aliens who receive legal permanent resident status as a result of the provisions of title VI of this Act, or the amendments made by such title, shall not exceed a total of 7,000,000. If the number of aliens qualified to adjust to legal permanent resident status under Title VI of this Act exceeds 7,000,000, they shall still be eligible to receive a green card, but the total number of immigrants under subsection (b) shall he reduced by the total number of such qualified aliens in excess of 7,000,000.

(b) Except as provided in subsection (a), the total number of aliens and dependents of such aliens who receive legal permanent resident status shall not exceed 18,000,000 during each 10-year period beginning with the period extending from 2007 through 2016.''.

SA 4112. Mr. CONRAD 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 appropriate place, insert the following:

SEC. ___. ALIEN MEDICAL RESIDENT SERVICE REQUIREMENT.

Any alien admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), who is participating in a medical residency program in the United States, shall, during the 3-year period beginning on the date of commencement of such nonimmigrant status (or, in the case of an alien who initially practices medicine as part of such medical residency program in a medical facility that is located in an area described in paragraph (1) or (2)), during the 3-year period beginning on the date of completion of such program), practice medicine in a facility that is located in—

(1) a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations); or

(2) a Medically Underserved Area (as designated by the Secretary of Health and Human Services).

SA 4113. Mr. CONRAD 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 appropriate place, insert the following:

SEC. ___. EXEMPTION FROM NUMERICAL LIMITATION FOR PHYSICIANS PRACTICING IN UNDERSERVED AREAS.

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

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

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

(3) 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 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:

(e) 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 amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(f) 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), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(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 IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering from an accredited university in the United States, or an equivalent foreign degree, 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 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 anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) 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).

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

(2) in subsection (e)—

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

(B) by redesignating paragraph (3) as paragraph (4); and

(C) 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)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(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)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection

(c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(g) EFFECTIVE DATE.—The amendments made by subsections (e) and (f) shall take effect on October 1, 2006.

SA 4115. Mr. CORNYN 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:

On page 219, line 18, insert after ''or (a)(2)'' the following: ''or knowingly employs an alien after receiving a final nonconfirmation''.

On page 227, line 17, strike ''amended by adding at the end'' and insert the following: ''amended—

(1) in subparagraph (G)—

(A) by inserting ''(i)'' after ''(G)'';

(B) by striking ''banknote paper'' and inserting ''durable plastic or similar material''; and

(C) by adding at the end the following new clauses:

''(ii) Each Social Security card issued under this subparagraph shall include an encrypted machine-readable electronic identification strip which shall be unique to the individual to whom the card is issued. The Commissioner shall develop such electronic identification strip in consultation with the Secretary of Homeland Security.

''(iii) Each Social Security card issued under this subparagraph shall contain—

''(I) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes; and

''(II) a disclaimer stating the following: 'This card shall not be used for the purpose of identification.'.

''(iv) The Commissioner shall provide for the issuance (or reissuance) to each individual who—

''(I) has been assigned a Social Security account number under subparagraph (B),

''(II) has attained the minimum age applicable, in the jurisdiction in which such individual engages in employment, for legally engaging in such employment, and

''(III) files application for such card under this clause in such form and manner as shall be prescribed by the Commissioner,

a Social Security card which meets the preceding requirements of this subparagraph and which includes a recent digitized photograph of the individual to whom the card is issued.

''(v) The Commissioner shall maintain an ongoing effort to develop measures in relation to the Social Security card and the issuance thereof to preclude fraudulent use thereof.''; and

(2) by adding at the end

SA 4116. Mr. BURNS 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:

On page 244, after line 24, add the following:

(d) EXCLUSION OF ILLEGAL ALIENS FROM CONGRESSIONAL APPORTIONMENT TABULATIONS.—Upon completion of the report under subsection (c), the Director of the Bureau of the Census shall make such adjustments in total population figures as may be necessary, using 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.

SA 4117. Mr. LEAHY (for himself, Mr. COLEMAN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. CHAFEE, Mr. HARKIN, Mr. BINGAMAN, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 65, line 24, strike ''f'' and insert the following;

(f) TERRORIST ORGANIZATIONS.—

(1) DEFINITIONS.—Section 212(a)(3)(B)(vi) (8 U.S.C. 1182(a)(3)(B)(vi)) is amended by striking subclause (III) and inserting the following:

''(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv), and that the Secretary of State, in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, has determined that these activities threaten the security of United States nationals or the national security of the United States.

''(vii) APPLICABILITY.—Clause (iv)(VI) shall not apply to—

''(I) any active or former member of the Armed Forces of the United States with regard to activities undertaken in the course of official military duties; or

''(II) any alien determined not to be a threat to the security of United States nationals or the national security of the United States and who is not otherwise inadmissible on security related grounds under this subparagraph.''.

(2) TEMPORARY ADMISSION OF NON-IMMIGRANTS.—Section 212(d)(3)(B)(i) (8 U.S.C. 1182(d)(3)(B)(i)) is amended to read as follows:

''(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may conclude in such Secretary's sole unreviewable discretion that subclause (IV)(bb), (VI), or (VII) of subsection (a)(3)(B)(i) shall not apply to an alien, that subsection (a)(3)(B)(iv)(VI) shall not apply with respect to any material support an alien afforded to an organization (or its members) or individual that has engaged in a terrorist activity, or that subsection (a)(3)(B)(vi)(III) shall not apply to a group, or to a subgroup of such group, within the scope of that subsection. The Secretary of State may not, however, exercise discretion under this clause with respect to an alien once removal proceedings against the alien are instituted under section 240.''.

(g)

SA 4118. 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:

At the appropriate place, insert the following:

SEC. . CITIZENSHIP STATUS AT BIRTH FOR CHILDREN OF NON-CITIZEN, NON-PERMANENT RESIDENT ALIENS.

(a) PURPOSE.—The purpose of this section is to deny automatic citizenship at birth to children born in the United States if neither parent is a citizen or permanent resident alien of the United States.

(b) AMENDMENTS.—

(1) IN GENERAL.—Chapter 1 of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) in section 301(a), by inserting ''(as defined in section 309A))'' 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 shall be 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.

''(b) 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.''.

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 309 the following new item:

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

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to aliens born on or after the date of enactment of this Act.

SA 4119. 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:

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(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 8 U.S.C. 1326(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 18 U.S.C. 758.

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)(iv).

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)(l)(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. 1324(a)(1)(A)(v)(II).

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(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 8 U.S.C. 1324(a)(1)(A)(iii).

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. 1324(a)(1)(A)(v)(II).

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. 1324d(a)(1)(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 18 U.S.C. 1546(b).

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. 1001.

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. 1425(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 18 U.S.C. 1426.

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. 1427.

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. 1423.

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. 1324c(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 8 U.S.C. 1324c(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(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. 1324c(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 proyision 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)(B).

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 42 U.S.C. 408.

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 CONTINGENT ON COST ESTIMATE BY THE CONGRESSIONAL BUDGET OFFICE.

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 who enters the United States in violation of Federal law, such provision shall not go into effect until the Congressional Budget Office submits to Congress a report setting forth a comprehensive estimate and assessment of the costs of the implementation such provision.

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:

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:

(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 $400,000,000 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), with respect to aliens, who, on such effective date, are outside of the United 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:

At the end of title II, insert the following:

SEC. ___. EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides additional services with respect to aliens who are illegally present in the United States. Such expansion should include—

(1) increasing the daily operations of such System with buses and air hubs in 3 geographic regions;

(2) allocating a set number of seats for such aliens for each metropolitan area;

(3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and

(4) requiring an annual report that analyzes of the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

SA 4124. Mr. BURNS 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. . EXCLUSION OF ILLEGAL ALIENS FROM CONGRESSIONAL APPORTIONMENT TABULATIONS.

In addition to any report under this act the Director of the Bureau of the Census shall submit to Congress a report on the impact of illegal immigration on the apportionment of Representatives of 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 in Congress among the several States.

SA 4125. Mr. KYL 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:

On page 345, strike line 10 and all that follows through page 395, line 23, and insert the following:

Subtitle A—Mandatory Departure and Reentry in Legal Status

SEC. 601. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218C, as added by section 405, the following:

''SEC. 218D. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—

''(1) PRESENCE.—An alien shall establish that the alien—

''(A) was physically present in the United States on or before April 5, 2001;

''(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 since 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 section 212(a), or a ground of ineligibility under paragraph (4), as applied to individual aliens—

''(i) for humanitarian purposes;

''(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—

''(I) for overstaying the period of authorized admission under section 217;

''(II) under section 235 or 238; or

''(III) pursuant to a final order of removal under section 240;

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

''(iii) 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—

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

''(II) 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

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

''(vi) 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 not been ordered 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 may, in 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)(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

''(ii)(I) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(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's departure from the United States 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.

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

''(6) 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 commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, 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 benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or 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 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(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.

''(c) 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 interview 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 accepting 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.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data 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.

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

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

''(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(B) understands the terms of the terms of Deferred Mandatory Departure;

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

''(3) any false or fraudulent documents in the alien's possession.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant Deferred Mandatory Departure status to an alien for a period not to exceed 5 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(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.

''(3) 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)(9)(B); and

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

''(4) 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 or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, except as provided under section

208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to immediately depart the United States shall be subject to—

''(A) no fine if the alien departs the United States not later than 1 year after being granted Deferred Mandatory Departure status;

''(B) a fine of $2,000 if the alien remains in the United States for more than 1 year and not more than 2 years after being granted Deferred Mandatory Departure status;

''(C) a fine of $3,000 if the alien remains in the United States for more than 2 years and not more than 3 years after being granted Deferred Mandatory Departure status;

''(D) a fine of $4,000 if the alien remains in the United States for more than 3 years and not more than 4 years after being granted Deferred Mandatory Departure status; and

''(E) a fine of $5,000 if the alien remains in the United States for more than 4 years after being granted Deferred Mandatory Departure status.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period in which an alien is in Deferred Mandatory Departure status, the alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure status is not subject to section 212(a)(9) for any unlawful presence that occurred before the Secretary of Homeland Security granting such status to the alien.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure status—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) shall establish, at the time of application for admission, that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure status under this section, the alien—

''(A) shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) may be deemed ineligible for public assistance by a State or any political subdivision of a State that furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status may not apply to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS.—

''(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status shall be employed while the alien is in the United States. An alien who fails to be employed for 30 days may not be hired until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

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

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218C the following:

''Sec. 218D. Mandatory departure and reentry.''.

(2) DEPORTATION.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218D),''.

SEC. 602. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 603. EXCEPTIONS FOR HUMANITARIAN REASONS.

Notwithstanding any other provision of law, an alien of good moral character may be exempt from Deferred Mandatory Departure status and may apply for lawful permanent resident status during the 1-year period beginning on the date of the enactment of this Act if the alien—

(1) is the spouse of a citizen of the United States at the time of application for lawful permanent resident status;

(2) is 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.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out this title and the amendments made by this title.

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:

Insert in the appropriate 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 to 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 incentives for preferable conduct 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 become dependent on any other government program; and

(7) That America should fully recognize and appreciate that 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:

On page 537, between lines 2 and 3, insert the following:

SEC. 645. SUPPLEMENTAL IMMIGRATION FEE.

(a) AUTHORIZATION OF FEE.—

(1) IN GENERAL.—Subject to paragraph (2), any alien who receives any immigration benefit under this title, or the amendments made by this title, shall, before receiving such benefit, pay a fee to the Secretary in an amount equal to $500, in addition to other applicable fees and penalties imposed under this title, or the amendments made by this title.

(2) FEES CONTINGENT ON APPROPRIATIONS.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed, as described in subsection (b), is provided for in advance in an appropriations Act.

(b) DEPOSIT AND EXPENDITURE OF FEES.—

(1) DEPOSIT.—Amounts collected under subsection (a) shall be deposited as an offsetting collection in, and credited to, the accounts providing appropriations–

(A) to carry out the apprehension and detention of any alien who is inadmissible by reason of any offense described in section 212(a);

(B) to carry out the apprehension and detention of any alien who is deportable for any offense under section 237(a);

(C) to acquire border sensor and surveillance technology;

(D) for air and marine interdiction, operations, maintenance, and procurement;

(E) for construction projects in support of the United States Customs and Border Protection;

(F) to train Federal law enforcement personnel; and

(G) for maritime security activities.

(2) AVAILABILITY OF FEES.—Amounts deposited under paragraph (1) shall remain available until expended for the activities and services described in paragraph (1).

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:

Beginning on page 575, strike 22 and all that follows through page 577, line 25, and insert the following:

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall establish, by regulation, a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Secretary shall authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under subsection (a) 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).

SEC. 743. CANCELLATION OF REMOVAL 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 to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b), if the alien applies for such relief.

(b) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subsection (a) shall apply to any alien who was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity.

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:

On page 12, line 1, strike ''(e)'' and insert the following:

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program, based at the Northern Border airbase in Great Falls, Montana, to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f)

SA 4130. Mr. AKAKA (for himself, Ms. MIKULSKI, Mr. STEVENS) 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. ___. DESIGNATION OF PROGRAM COUNTRIES.

Section 217(c)(1) (8 U.S.C. 1187(c)(1)) is amended to read as follows:

''(1) IN GENERAL.—As soon as any country fully meets the requirements under paragraph (2), the Secretary of Homeland Security, in consultation with the Secretary of State, shall designate such country as a program country.''.

SA 4131. 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 316, strike lines 1 through 5, and insert the following:

''(2) VISAS FOR SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).

''(B) NUMERICAL LIMITATION.—The total number of visas issued under paragraph (1)(A) and paragraph (2), excluding such visas issued to aliens pursuant to section 245B or section 245C of the Immigration and Nationality Act, may not exceed 650,000 during any fiscal year.

''(C) CONSTRUCTION.—Nothing in this paragraph may be construed to modify the requirement set out in 245B(a)(1)(I) or 245C(i)(2)(A) that prohibit an alien from receiving an adjustment of status to that of a legal permanent resident prior to the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of section 245B and 245C.

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 290, between lines 7 and 8, and insert the following:

(3) to study the impact of numerical limitations on employment-based visas issued under section 201(d) of 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. Consultations between 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 the views of 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 $400,000,000 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), with respect to aliens, who, on such effective date, are outside of the United States.

(2) EXCEPTION.—Not later than 1 year after the date of the enactment of this Act, the amendment made by subsection (a) may apply to aliens who are reentering the United States pursuant to section 245C of the Immigration and Nationality Act, as added by section 601(c).

Subsection (b) of section 406 is amended to read as follows:

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act and shall be applied as follows:

(1) Not later than 1 year after the date of the enactment of this Act, such amendments. shall apply to aliens who are reentering the United States pursuant to section 245C of the Immigration and Nationality Act, as added by section 601(c).

(2) Not later than 18 months after the date that not less than $400,000,000 have 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—

''alien who is unlawfully present in the United States, or an alien receiving adjustment of status under section 408(h) 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 4136. 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:

On page 351, line 13, strike ''The alien'' through ''which taxes are owed.'' on page 351, line 22, and insert the following:

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

''(I) no such tax liability exists;

''(II) all outstanding liabilities have been met; or

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

''(ii) LIMITATION.—Provided further that an alien required to pay taxes under this subparagraph, or who otherwise satisfies the requirements of clause (i), 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 4137. 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:

On page 411, after line 25, insert the following clause:

(iii) LIMITATION.—Provided further that an alien required to to pay taxes under this subparagraph, or who otherwise satisfies the requirements of subclause (I), (II), or (II) of clause (i), 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, would be offered at the training facility through multi-day training programs involving classroom and real-world applications, and would include training in—

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

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

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

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

(B) technology upgrades and integration; and

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

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) 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:

SEC. ___. ESTABLISHMENT OF A NATIONAL PUBLIC ACHIEVEMENT PILOT PROGRAM FOR NEW IMMIGRANTS AND CROSS-CULTURAL UNDERSTANDING.

(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;

(4) through that program, participants have learned basic methods for becoming civically engaged citizens;

(5) the Public Achievement program was created in 1990 as a partnership between the city of St. Paul, Minnesota and the Center for Democracy and Citizenship at the Humphrey Institute of Public Affairs;

(6) as of the date of enactment of this Act, public achievement programs have been established in the States of Minnesota, New York, Colorado, Florida, New Hampshire, Wisconsin, California, and Missouri;

(7) internationally, the Public Achievement program (and similar programs) are active in Northern Ireland, Turkey, Palestine, Israel, Poland, Moldova, Ukraine, Romania, Bulgaria, Serbia, Macedonia, Albania, Kosovo, and Scotland;

(8) the Public Achievement program has been recognized nationally as a promising model of youth civic engagement by the National Commission on Civic Renewal and in the Civic Mission of Schools report by the Carnegie Corporation of New York and the Center for Information and Research on Civic Learning and Engagement (CIRCLE);

(9) the Public Achievement program model of civic engagement is a valuable model for programs that assist new immigrants in integrating their lives into American society;

(10) working alongside American-born citizens to practice the skills of citizenship, new immigrants involved in public achievement programs will begin to understand and embrace American civic values;

(11) through public achievement programs, American citizens will put their values into action and gain understanding of and appreciation for new cultures; and

(12) through public work and reflection, immigrants and American citizens will continue to foster the true American spirit that includes freedom, democracy, citizenship, and other ideals that are at the core of American society.

(b) ESTABLISHMENT.—The Director of the Bureau of Citizenship and Immigration Services shall establish a National Public Achievement Pilot Program for new immigrants and to increase cross-cultural understanding that is carried out at elementary, middle, and high schools in the United States for the purposes described in subsection (c).

(c) PURPOSES.—The purposes of the National Public Achievement Pilot Program for new immigrants and cross-cultural understanding shall be—

(1) to assist the integration into American society by developing civic skills and engaging immigrants and American citizens in creative opportunities for enhancing public life;

(2) to promote sustained productive efforts between people of different backgrounds, views, and interests;

(3) to educate new immigrant groups regarding methods to become involved in local and national civics, while teaching others about the culture of such groups; and

(4) to enable American citizens and immigrants to work together and with civic, educational, community-based, and faith-based organizations to create a broad culture of citizenship, civic renewal, and inter-cultural understanding.

SA 4140. Mr. DOMENICI (for himself, Mr. KYL, and Mrs. HUTCHISON) 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. ___. ADDITIONAL DISTRICT COURT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, 1 additional district court judge for each district court—

(1) in which immigration filings during fiscal year 2004 represented more than 50 percent of all criminal filings during such fiscal year; and

(2) for which the 2005 Judicial Conference recommendations included at least 1 additional temporary or permanent judgeship.

SA 4141. Mr. SCHUMER (for himself and 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 320, line 4, strike ''(c)'' and insert the following:

(c) DIVERSITY IMMIGRANTS.—Section 203(c) (8 U.S.C. 1153(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking '', or'' and inserting ''; and''; and

(B) by amending subparagraph (B) to read as follows:

''(B) has at least—

''(i) 2 years of work experience in an occupation that requires at least 2 years of training or experience; or

''(ii) 4 years of formal education beyond the education described in subparagraph (A).''; and

(2) by adding at the end the following:

''(4) GROUNDS FOR INELIGIBILITY.—Notwithstanding any other provision in this Act, an alien is ineligible to receive a visa under this subsection if the alien is described in paragraph (1) (relating to health-related grounds), (2) (relating to criminal and related grounds), (3) (relating to security and terrorist grounds), (4) (relating to likelihood to become a public charge), (6) (relating to illegal entrants and immigration violators), (8) (relating to permanent ineligibility for citizenship), or (9) (relating to aliens previously removed) of section 212(a).''.

(d)

SA 4142. 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; as follows:

On page 183, between lines 4 and 5, insert the following:

SEC. 235. 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 Secretary) or the Attorney General (in the sole and unreviewable discretion of the Attorney General), as applicable, may waive any ground of inadmissibility or removal of an alien under, or arising from, an amendment made by a provision of section 203, 208, 209, 214 or 222 of this Act if the denial of admission or removal of such alien would result in an extreme hardship to a spouse, parent, or child of such alien who is a citizen or an alien lawfully admitted for permanent residence.

(b) EXCEPTION FOR TERRORISTS.—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 inadmissability 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 continues until the alien is discovered within the United States by an immigration officer.

''(B) APPLICABILITY.—Subparagraph (A) shall apply only to offenses that occur after 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 ending on the date that is 14 days prior to the date on which the petition is filed, the employer involved shall take the following steps to recruit United States workers for the position for which the H-2C nonimmigrant is sought under the petition:

''(A) Submit a copy of the job offer, including a description of the wages and other terms and conditions of employment and the minimum education, training, experience and other requirements of the job, to the State Employment Service Agency that serves the area of employment in the State in which the employer is located.

''(B) Authorize the State Employment Service Agency to post the job opportunity on the Internet through the website for America's Job Bank, with local job banks, and with unemployment agencies and other labor referral and recruitment sources pertinent to the job involved.

''(C) Authorize the State Employment Service Agency to notify labor organizations in the State in which the job is located, and if applicable, the office of the local union which represents the employees in the same or substantially equivalent job classification of the job opportunity.

''(D) Post the availability of the job opportunity for which the employer is seeking a worker in conspicuous locations at the place of employment for all employees to see.

''(2) EFFORTS TO EMPLOY UNITED STATES WORKERS.—An employer that seeks to employ an H-2C nonimmigrant shall—

''(A) first offer the job to any eligible United States worker who applies, is qualified for the job, and is available at the time of need;

''(B) be required to maintain for at least 1 year after the employment relation is terminated, documentation of recruitment efforts and responses conducted and received prior to the filing of the employer's application with the Department of Labor, including resumes, applications, and if applicable, tests of United States workers who applied and

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. 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) files with the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(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)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—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) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) of such Act (8 U.S.C. 1184(d)) to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), before or after its approval, solely due to—

(i) the death or disability of the petitioner, applicant, or alien beneficiary as a direct result of a specified hurricane disaster; or

(ii) loss of employment as a direct result of a specified hurricane disaster.

(2) SPOUSES AND CHILDREN.—

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

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

(ii) the alien—

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than August 26, 2007.

(B) CONSTRUCTION.—In construing the terms ''accompanying'' and ''following to join'' in subparagraph (A)(ii), the death of a principal alien described in paragraph (1)(B)(i) shall be disregarded.

(3) GRANDPARENTS OR LEGAL GUARDIANS OF ORPHANS.—An alien is described in this subsection if the alien is a grandparent or legal guardian of a child whose parents died as a direct result of a specified hurricane disaster, if either of the deceased parents was, as of August 26, 2005, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) PRIORITY DATE.—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.

(d) NUMERICAL LIMITATIONS.—In applying sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants who are not described in subparagraph (A), (B), (C), or (K) of section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)).

SEC. 514. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), 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—

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

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

(2) ALIENS DESCRIBED.—

(A) PRINCIPAL ALIENS.—An alien is described in this paragraph if the alien was disabled as a direct result of a specified hurricane disaster.

(B) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien, as of August 26, 2005, was the spouse or child of—

(i) a principal alien described in subparagraph (A); or

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

(3) AUTHORIZED EMPLOYMENT.—During the period in which a principal alien or alien spouse is in lawful nonimmigrant status under paragraph (1), the alien may be provided an ''employment authorized'' endorsement or other appropriate document signifying authorization of employment.

(b) NEW DEADLINES FOR EXTENSION OR CHANGE OF NONIMMIGRANT STATUS.—

(1) FILING DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified hurricane disaster, the alien's application may be considered timely filed if it is filed not later 1 year after the application would have otherwise been due.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) mail or courier service cessations or delays;

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

(iv) mandatory evacuation and relocation; or

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

(2) DEPARTURE DELAYS.—

(A) IN GENERAL.—If 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 ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from 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 relocation; or

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

(c) DIVERSITY IMMIGRANTS.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)), is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 1998, or for a subsequent fiscal year, may be issued, or adjustment of status under section 245(a) based upon the availability of such visa may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment in the fiscal year for which 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 201(e) for 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)

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 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 December 31, 2005, and the alien was unable to voluntarily depart before the expiration date as a direct result of a specified hurricane disaster, such voluntary departure period is 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.

(f) CURRENT NONIMMIGRANT VISA HOLDERS.—

(1) IN GENERAL.—An alien, who was lawfully present in the United States on August 26, 2005, as a nonimmigrant under section 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 upon the filing by a prospective employer of a new petition on behalf of such nonimmigrant not later than August 26, 2006.

(2) CONTINUATION OF 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 SURVIVING SPOUSES AND CHILDREN.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), 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, the alien (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death if the alien files a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after such date and only until the date on which the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under this paragraph shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) 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, if the citizen died as a direct result of a specified hurricane disaster, the alien may be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), 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.

(B) PETITIONS.—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. 1153(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 that assigned 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 petition 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 August 26, 2005. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) 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 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 was, 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 lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) APPLICATIONS BY SURVIVING SPOUSES AND CHILDREN OF REFUGEES AND ASYLEES.—

(1) IN GENERAL.—Any alien who, on August 26, 2005, was the spouse or child of an alien described in paragraph (2), may have his or her eligibility to be admitted under sections 207(c)(2)(A) or 208(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A), 1158(b)(3)(A)) considered as if the alien's 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 208 of such Act (8 U.S.C. 1158).

(e) WAIVER OF PUBLIC CHARGE GROUNDS.—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 a specified hurricane disaster.

SEC. 517. AGE-OUT PROTECTION.

In administering the immigration laws, the Secretary and the Attorney General may grant any application or benefit notwithstanding the applicant or beneficiary (including a derivative beneficiary of the applicant or beneficiary) reaching an age that would render the alien ineligible for the benefit sought, if the alien's failure to meet the age requirement occurred as a direct result of a specified hurricane disaster.

SEC. 518. EMPLOYMENT ELIGIBILITY VERIFICATION.

(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 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.

(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 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 oath of allegiance, or requiring residence to be maintained or any action to be taken in any specific district or State within the United States.

SEC. 520. DISCRETIONARY AUTHORITY.

The Secretary or the Attorney General may waive violations of the immigration laws committed, on or before March 1, 2006, by an alien—

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

(2) whose failure to comply with the immigration laws was a direct result of a specified hurricane disaster.

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 instruct 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 identity 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 shall carry out the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing 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, information collection, 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. 524. NOTICES OF CHANGE 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 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.

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, 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) 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.

SA 4147. Mr. NELSON of Nebraska 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:

Strike title III and insert the following:

TITLE III—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

SEC. 301. SHORT TITLE.

This title may be cited as the ''Employment Security Act of 2006''.

SEC. 302. FINDINGS.

Congress makes the following findings:

(1) The failure of Federal, State, and local governments to control and sanction the unauthorized employment and unlawful exploitation of illegal alien workers is a primary cause of illegal immigration.

(2) The use of modern technology not available in 1986, when the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) created the I–9 worker verification system, will enable employers to rapidly and accurately verify the identity and work authorization of their employees and independent contractors.

(3) The Government and people of the United States share a compelling interest in protection of United States employment authorization, income tax withholding, and social security accounting systems, against unauthorized access by illegal aliens.

(4) Limited data sharing between the Department of Homeland Security, the Internal Revenue Service, and the Social Security Administration is essential to the integrity of these vital programs, which protect the employment and retirement security of all working Americans.

(5) The Federal judiciary must be open to private United States citizens, legal foreign workers, and law-abiding enterprises that seek judicial protection against injury to their wages and working conditions due to unlawful employment of illegal alien workers and the United States enterprises that utilize the labor or services provided by illegal aliens, especially where lack of resources constrains enforcement of Federal immigration law by Federal immigration officials.

Subtitle B—Employment Eligibility Verification System

SEC. 311. EMPLOYMENT 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—

''(i) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed; and

''(ii) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

''(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual's identity and employment eligibility 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 TENTATIVE NONVERIFICATION.—In cases of tentative nonverification, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the date of the tentative nonverification. 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 and operated—

''(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 national 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, 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 Commissioner in order to validate (or not validate) the information provided regarding an individual whose 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) except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

''(F) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—(i) As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification or authorization number which are 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 order to ensure that no fraudulent use of a social security account number has taken place. If the Secretary has selected a designee to establish and administer the verification system, the designee shall notify the Secretary 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 designee shall also provide the Secretary with all pertinent 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 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 information 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 brought to their attention in the secondary verification process described in subparagraph (C).

''(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 enforcement and administration 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 through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought 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 eligibility 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.—Section 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.—In the case of a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, the following requirements apply:

''(i) FAILURE TO SEEK VERIFICATION.—

''(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(7), seeking verification of the identity and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring, the date specified in subsection (b)(8)(B) for previously hired individuals, or before the recruiting or referring commences, the defense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

''(II) 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 (A) and the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

''(ii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection (b)(7)(B) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.'';

(2) by amending subparagraph (A) of subsection (b)(1) to read as follows:

''(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Secretary by regulation, that it has verified that the individual is not an unauthorized alien by—

''(i) obtaining from the individual the individual's social security account number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under paragraph (2), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

''(ii)(I) examining a document described in subparagraph (B); or

''(II) examining a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and, if the document bears an expiration date, that expiration date has not elapsed. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and is sufficient to meet the first sentence of this paragraph, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce another document.'';

(3) in subsection (b)(1)(D)—

(A) in clause (i), by striking ''or such other personal identification information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section''; and

(B) in clause (ii), by inserting before the period ''and that contains a photograph of the individual'';

(4) in subsection (b)(2), by adding at the end the following: ''The individual must also provide that individual's social security account number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under this paragraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.'';

(5) by amending paragraph (3) of subsection (b) to read as follows:

''(3) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

''(A) IN GENERAL.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity shall—

''(i) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual or the date of the completion of verification of a previously hired individual and ending—

''(I) in the case of the recruiting or referral of an individual, three years after the date of the recruiting or referral;

''(II) in the case of the hiring of an individual, the later of—

''(aa) three years after the date of such hiring; or

''(bb) one year after the date the individual's employment is terminated; and

''(III) in the case of the verification of a previously hired individual, the later of—

''(aa) three years after the date of the completion of verification; or

''(bb) one year after the date the individual's employment is terminated;

''(ii) make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring or in the case of previously hired individuals, the date specified in subsection (b)(8)(B), or before the recruiting or referring commences; and

''(iii) not commence recruitment or referral of the individual until the person or entity receives verification under subparagraph (B)(i) or (B)(iii).

''(B) VERIFICATION.—

''(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 of the individual.

''(ii) TENTATIVE NONVERIFICATION RECEIVED.—If the person or other entity receives a tentative nonverification of an individual's identity or 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 considered 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 contest the nonverification, the individual shall utilize the process for secondary verification provided under paragraph (7). The nonverification will remain tentative until a final verification or nonverification is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until 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 during the time period specified 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 cannot receive inquiries 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 for the previous sentence to apply to such an inquiry, and 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 or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or 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) CONTINUED 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).'';

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

''(4) COPYING AND RECORD KEEPING OF DOCUMENTATION REQUIRED.—

''(A) LAWFUL EMPLOYMENT DOCUMENTS.—Notwithstanding any other provision of law, a person or entity shall retain a copy of each document presented by an individual to the individual or entity pursuant to this subsection. Such copy may only be used (except as otherwise permitted under law) for the purposes of complying with the requirements of this subsection and shall be maintained for a time period to be determined by the Secretary of Homeland Security.

''(B) SOCIAL SECURITY CORRESPONDENCE.—A person or entity shall maintain records of correspondence from the Commissioner of Social Security regarding name and number mismatches or no-matches and the steps taken to resolve such mismatches or no-matches. The employer shall maintain such records for a time period to be determined by the Secretary.

''(C) OTHER DOCUMENTS.—The Secretary may, by regulation, require additional documents to be copied and maintained.''; and

(7) by amending paragraph (5) of subsection (b) to read as follows:

''(5) USE OF ATTESTATION FORM.—A form designated by the Secretary to be used for compliance with this subsection, and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter or of title 18, United States Code.''.

(b) INVESTIGATION NOT A WARRANTLESS ENTRY.—Section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) is amended by adding at the end the following: ''An investigation authorized pursuant to subsections (b)(7) or (e) of section 274A is not a warrantless entry.''.

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

SEC. 313. EXPANSION OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM TO PREVIOUSLY HIRED INDIVIDUALS AND RECRUITING AND REFERRING.

(a) APPLICATION TO RECRUITING AND REFERRING.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(1)(A), by striking ''for a fee'';

(2) in subsection (a)(1), by amending subparagraph (B) to read as follows:

''(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements of subsection (b).'';

(3) in subsection (a)(2) by striking ''after hiring an alien for employment in accordance with paragraph (1),'' and inserting ''after complying with paragraph (1),''; and

(4) in subsection (a)(3), as amended by section 312, is further amended by striking ''hiring,'' and inserting ''hiring, employing,'' each place it appears.

(b) EMPLOYMENT ELIGIBILITY VERIFICATION FOR PREVIOUSLY HIRED INDIVIDUALS.—Section 274A(b) of such Act (8 U.S.C. 1324a(b)), as amended by section 311(a), is amended by adding at the end the following new paragraph:

''(8) USE OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM FOR PREVIOUSLY HIRED INDIVIDUALS.—

''(A) ON A VOLUNTARY BASIS.—Beginning on the date that is 2 years after the date of the enactment of the Employment Security Act of 2006 and until the date specified in subparagraph (B)(iii), a person or entity may make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of any individual employed by the person or entity, as long as it is done on a nondiscriminatory basis.

''(B) ON A MANDATORY BASIS.—

''(i) INITIAL COMPLIANCE.—A person or entity described in clause (ii) shall make an inquiry as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity who have not been previously subject to an inquiry by the person or entity by the date 3 years after the date of the enactment of the Employment Security Act of 2006.

''(ii) PERSON OR ENTITY COVERED.—A person or entity is described in this clause if it is a Federal, State, or local governmental body (including the Armed Forces of the United States), or if it employs individuals working in a location that is a Federal, State, or local government building, a military base, a nuclear energy site, a weapon site, an airport, or that contains critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))), but only to the extent of such individuals.

''(iii) SUBSEQUENT COMPLIANCE.—All persons and entities other than a person or entity described in clause (ii) shall make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity that have not been previously subject to an inquiry by the person or entity by the date 6 years after the date of the enactment of the Employment Security Act of 2006.''.

SEC. 314. EXTENSION OF PREEMPTION TO REQUIRED CONSTRUCTION OF DAY LABORER SHELTERS.

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

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

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) Requiring as a condition of conducting, continuing, or expanding a business that a business entity—

''(i) 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 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking ''at the end of the 11-year period beginning on the first day the pilot program is in effect'' and inserting ''2 years after the date of the enactment of the Employment Security Act of 2006''.

SEC. 316. PROTECTION FOR UNITED STATES WORKERS AND INDIVIDUALS REPORTING IMMIGRATION LAW VIOLATIONS.

Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) 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.

(a) CIVIL AND CRIMINAL PENALTIES.—Section 274A(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(4)) is amended to read:

''(4) CIVIL AND CRIMINAL PENALTIES.—

''(A) KNOWINGLY HIRING UNAUTHORIZED ALIENS.—Any person or entity that violates subsection (a)(1)(A) 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 and not more than 3 years, or both.

''(B) CONTINUING EMPLOYMENT OF UNAUTHORIZED ALIENS.—Any person or entity that

violates subsection (a)(2) shall be fined in accordance of 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)(5) of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read:

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

''(A) in the case of a first offense, be fined $1,000 for each violation;

''(B) in the case of a second violation, be fined $5,000 for each violation; and

''(C) in the case of a third and subsequent violation, be fined $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) EMPLOYERS.—

''(i) IN GENERAL.—If the Secretary of Homeland Secretary 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, grant, or cooperative agreement for a period of 2 years. The Secretary of Homeland Security or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a 2-year period.

''(ii) WAIVER.—The Administrator of General Services, in consultation with the Secretary of Homeland Security and Attorney General, may waive the application of this subparagraph or may limit the duration or scope of the debarment imposed under it.

''(iii) PROHIBITION ON JUDICIAL REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

''(B) CONTRACTORS AND RECIPIENTS.—

''(i) IN GENERAL.—If the Secretary of Homeland Security determines that a person or entity that employs an alien and holds a Federal contract, grant, or cooperative agreement 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, grant, or cooperative agreement for a period of 2 years. Prior to debarring the employer, the Secretary of Homeland Security, in cooperation with the Administrator of General Services, shall advise the head of each agency holding such a contract, grant, or cooperative agreement with person or entity of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(ii) WAIVER.—After consideration of the views of the head of each such agency, the Secretary of Homeland Security may, in lieu of debarring the employer from the receipt of new a Federal contract, grant, or cooperative agreement for a period of 2 years, waive application of this subparagraph, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation.

''(iii) PROHIBITION ON REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

''(C) CAUSE FOR SUSPENSION.—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.

''(D) 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, imprisoned for not less than 3 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)(2) and (f)(2) of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) are amended by striking ''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, however in no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

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 made 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; or

(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:

''(I)(i) Access to any information contained in the Employment Eligibility Verification System established 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 as otherwise authorized by Federal law.

''(ii) No person or entity may use the information in such Employment Eligibility Verification System for any purpose other than as permitted by Federal law.

''(iii) Whoever knowingly uses, discloses, publishes, or permits the unauthorized use of information in such Employment Eligibility Verification System in violation of clause (i) or (ii) shall be fined not more than $10,000 per individual injured by such violation. The Commissioner of Social Security shall establish procedure to ensure that 60 percent of any fine imposed under this clause is awarded to the individual injured by such violation.''.

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 the second sentence of subparagraph (B)(ii) and to subparagraph (C)(ii) for the purpose of administering those sections of the Internal Revenue Code of 1986 that grant tax benefits 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 such persons incident to the administration of 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)), as amended by section 423, is amended by adding at the end the following new subparagraph:

''(J) 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. 1304(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 any such Secretary or the Attorney General, or for inclusion on 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 6103 of the Internal Revenue Code of 1986) earnings are reported on or after January 1, 1997, to the Commissioner of Social Security on a social security account number issued to an alien who is not authorized to work in the United States, the Commissioner shall provide the Secretary of Homeland Security with information regarding the name, date of birth, and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.

''(3) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where a social security account number does not match the name in the Social Security Administration record. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or 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.

''(4) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where the individual has more than one person reporting earnings for the individual during a single tax year and where a social security number was used with multiple names. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or 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.

''(5)(A) The Commissioner of Social Security shall perform, at the request of the Secretary of Homeland Security, any search or manipulation of records held by the Commissioner, so long as the Secretary certifies that the purpose of the search or manipulation is to obtain information likely to assist in identifying individuals (and their employers) who—

''(i) are using false names or social security numbers; who are sharing among multiple individuals a single valid name and social security number;

''(ii) are using the social security number of persons who are deceased, too young to work or not authorized to work; or

''(iii) are otherwise engaged in a violation of the immigration laws.

''(B) The Commissioner shall provide the results of such search or manipulation to the Secretary, notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986). The Secretary shall transfer to the Commissioner the funds necessary to cover the additional cost directly incurred by the Commissioner in carrying out the searches or manipulations reported by the Secretary.''.

Subtitle D—Sharing of Information

SEC. 331. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY AND THE COMMISSIONER OF SOCIAL SECURITY.

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(i) 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 Secretary of the Treasury 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—

''(i) 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 the United States under section 274, 274A, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, or 1324c), or

''(iii) any investigation which may result in the proceedings enumerated in clauses (i) and (ii) above.

''(B) LIMITATION ON USE AND RETENTION OF TAX RETURN INFORMATION.—

''(i) Information disclosed under this paragraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

''(ii) Should the proceeding for which such information has been disclosed not commence within 3 years after the date on which the information has been disclosed by the Secretary, the information shall be returned to the Secretary in its entirety, and shall not be retained in any form by the requestor, unless the taxpayer is notified in writing as to the information that has been retained.''.

(b) AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end the following new subsection:

''(i) NO-MATCH NOTICE.—

''(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 Homeland Security with information relating to employers who have received no-match notices and, upon request, with such additional information as the Secretary certifies is necessary to administer or enforce the immigration laws.

''(B) FORM OF INFORMATION.—The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.

''(C) USE OF INFORMATION.—A no-match notice received by the Secretary from the Commissioner may be used as evidence in any civil or criminal proceeding.

''(3) OTHER AUTHORITIES.—

''(A) VERIFICATION REQUIREMENT.—The Secretary, in consultation with the Commissioner, is authorized to establish by regulation requirements for verifying the identity and work authorization of an employee who is the subject of a no-match notice.

''(B) PENALTIES.—The Secretary 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 regulation regarding the administration or enforcement of laws otherwise relating to taxation or the Social Security system.''.

Subtitle E—Identification Document Integrity

SEC. 341. CONSULAR IDENTIFICATION DOCUMENTS.

(a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOCUMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), for purposes of personal identification, no agency, commission, entity, or agent of the executive or legislative branches of the Federal Government may accept, acknowledge, recognize, or rely on any identification document issued by the government of a foreign country, unless otherwise mandated by Federal law.

(2) AGENT DEFINED.—In this section, the term ''agent'' shall include the following:

(A) A Federal contractor or grantee.

(B) An institution or entity exempted from Federal income taxation under the Internal Revenue Code of 1986.

(C) A financial institution required to ask for identification under section 5318(l) of title 31, United States Code.

(3) EXCEPTIONS.—

(A) IN GENERAL.—An individual who is not a citizen or national of the United States may present for purposes of personal identification an official identification document issued by the government of a foreign country or other foreign identification document recognized pursuant to a treaty entered into by the United States, if—

(i) such individual simultaneously presents valid verifiable documentation of lawful presence in the United States issued by the appropriate agency of the Federal Government;

(ii) reporting a violation of law or seeking government assistance in an emergency;

(iii) the document presented is a passport issued to a citizen or national of a country that participates in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) by the government of such country; or

(iv) such use is expressly permitted another provision of Federal law.

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

(i) inspections of alien applicants for admission to the United States; or

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

(4) LISTING OF ACCEPTABLE DOCUMENTS.—The Secretary of Homeland Security shall issue and maintain an 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 274C(a) of the Immigration and Nationality Act (8 U.S.C. 1324c(a)) is amended—

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

(2) in paragraph (6), by striking the period at the end and inserting a comma and ''or''; and

(3) by inserting after paragraph (6) the following new paragraph:

''(7) to use to establish personal identity, before any agent of the Federal Government, or before any agency of the Federal Government or of a State or any political subdivision therein, a travel or identification document issued by a foreign government that is not accepted by the Secretary of Homeland Security to establish personal identity for purposes of admission to the United States at a port of entry, except—

''(A) in the case of a person who is not a citizen of the United States—

''(i) the person simultaneously presents valid verifiable documentation of lawful presence in the United States issued by an agency of the Federal Government;

''(ii) the person is reporting a violation of law or seeking government assistance in an emergency; or

''(iii) such use is expressly permitted by Federal law.''.

SEC. 342. 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, nonimmigrant, parole, asylee, 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) FEE.—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) EXCEPTION.—The fee described in paragraph (2) may not be levied against nationals of a foreign country if the Secretary of Homeland has determined that the total estimated population of such country who are unlawfully present in the United States does not exceed 3,000 aliens.''.

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) 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 and inserting the following:

''Sec. 303. Machine-readable, tamper-resistant travel, entry, and evidence of status documents.''.

Subtitle F—Effective Date; Authorization of Appropriations

SEC. 351. EFFECTIVE DATE.

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

SEC. 352. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise 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.

SA 4148. Mr. KENNEDY (for himself and Mr. OBAMA) 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:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 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) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

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

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, 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 for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(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—

''(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 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 another person, where such person hiring such alien failed to comply with the requirements of this section.

''(4) DEFENSE.—

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

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

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

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

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

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

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

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

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

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

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

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

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

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

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

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

''(I) a United States passport; or

''(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 division B of Public Law 109–13 (119 Stat. 302);

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary;

''(iii) in the case of an alien who is authorized under this Act or by the Secretary to be employed in the United States, an employment authorization card, as specified by the Secretary that—

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

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use;

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that—

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

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use; or

''(v) 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, a document, or a combination of documents, of such type that, as of the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary had established by regulation were sufficient for purposes of this section.

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

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

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

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

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

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

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

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

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

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

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

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

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

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

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

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

''(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States, including a copy of the form described in subsection (a)(3)(B).

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

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

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

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

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

''(B) such individual is eligible for 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 all employees 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 on a priority basis in the System with respect to employees hired prior to, on, or after the date of enactment of the Comprehensive Immigration Reform Act of 2006—

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

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

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(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 shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

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

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

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

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

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

''(8) DESIGN AND OPERATION OF SYSTEM.—

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

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

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

''(B) INITIAL INQUIRY.—

''(i) INFORMATION REQUIRED.—A registered employer shall, with respect to 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)—

''(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 subsection (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—

''(I) 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

''(II) in the case of an employee hired by a critical employer designated by the Secretary under paragraph (3)(B) at such time as the Secretary shall specify.

''(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 notice, including the appropriate codes on such confirmation notice; or

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

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under 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 such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)((1)(A)(i).

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (c)(2), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

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

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or 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).

''(vi) AUTOMATIC FINAL NOTICE.—

''(I) IN GENERAL.—If a final notice is not issued within the 30-day period described in clause (v)(II), the Secretary shall automatically provide to the employer, through the System, the appropriate code indicating a final notice.

''(II) 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 (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice.

''(III) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice unless the most recent such report includes a certification that the System is able to correctly issue, within the period beginning on the date an employer submits an inquiry to the System and ending on the date an automatic default notice would be issued by the System, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States. If the most recent such report includes such a certification, the automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

''(IV) ADDITIONAL AUTHORITY.—Notwithstanding the second sentence of subclause (III), the Secretary shall have the authority to issue a final confirmation notice for an individual who would be subject to a final nonconfirmation notice under such sentence. In such a case, the Secretary shall determine the individual's eligibility for employment in the United States and record the results of such determination in the System within 12 months.

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

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

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

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

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

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

''(E) RESPONSIBILITIES OF THE SECRETARY.—

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

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

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

''(ii) 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 the final notice relates to an individual who is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice); and

''(II) if the assessment under subclause (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 described in such subclause, a certification of such assessment.

''(iii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

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

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

''(II) the right to contest such notice;

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

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

''(v) 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 274B(a)(7) and 274C(a).

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

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

''(10) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 60 days after the date of such termination, file an appeal of such notice.

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

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

''(ii) the decision rules, processes, or procedures utilized by the System; or

''(iii) erroneous system information that was not the result of acts or omissions of the individual.

''(D) COMPENSATION FOR ERROR.—

''(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 individual, the Secretary shall take such affirmative action as the Secretary determines is appropriate, which shall include compensating the individual for reasonable costs and for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost 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.

''(E) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was ineligible for employment in the United States.

''(F) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall not be provided from funds appropriated in annual appropriations Acts to the Secretary for the Department of Homeland Security.

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 60 days after the date of such decision, or such further time as the Secretary may allow.

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

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

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph (10), the court shall take appropriate affirmative action, which shall include compensating the individual for reasonable costs and for lost wages.

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

''(12) 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 other than—

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

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

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

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

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

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

''(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

''(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

''(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

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

''(13) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(14) ANNUAL GAO STUDY AND REPORT.—

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

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

''(C) REPORT.—Not later than the date that is 24 months after the date of the enactment of 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 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 confirmations, on unfair 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 the duties and responsibilities of this section.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

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

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

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

''(i) describe the violation;

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

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

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

''(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or

other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice.

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

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

''(4) CIVIL PENALTIES.—

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

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

''(ii) 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 $10,000 for each unauthorized alien with respect to each such violation.

''(iii) 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 any such 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:

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

''(ii) 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 $4,000 for each such violation.

''(iii) 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 requirements, pay a civil penalty of not less than $600 and not more than $6,000 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, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 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 substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 46 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(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.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

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

''(g) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney's fees in this section shall be increased every 4 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 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

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

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 5 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 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.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. 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 subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(j) MISCELLANEOUS PROVISIONS.—

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

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer

for a fee for employment, unauthorized aliens.

''(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(l) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the 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' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

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

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

(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.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (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)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)''.

(d) AMENDMENTS 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 subparagraphs:

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 301(f)(2) of the Comprehensive Immigration Reform Act of 2006, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

''(I) a determination of whether the name, date of birth, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(II) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY 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 EMPLOYER 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—

''(I) 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

''(II) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—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 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 such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—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.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

''(I) the date such person begins to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under 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, 274B, and 274C of the Immigration and Nationality Act, and

''(iii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

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

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

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

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

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 annual 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.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)'', and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2007.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

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

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

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

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(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 described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

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

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) 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;

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

''(C) except as 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 reverification 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-verification procedures established in section 274A(d)(8)(E)(iii).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

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

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

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

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2007 through 2009'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

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 all that follows through page 392, line 9.

SA 4151. 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 378, strike lines 11 through 14, and insert ''any right to judicial review, other than to contest any removal action on the basis of''.

SA 4152. 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 380, between lines 20 and 21, 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.

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 5 and 6, 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) files with the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(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)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—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) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) of such Act (8 U.S.C. 1184(d)) to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), before or after its approval, solely due to—

(i) the death or disability of the petitioner, applicant, or alien beneficiary as a direct result of a specified hurricane disaster; or

(ii) loss of employment as a direct result of a specified hurricane disaster.

(2) SPOUSES AND CHILDREN.—

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

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

(ii) the alien—

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than August 26, 2007.

(B) CONSTRUCTION.—In construing the terms ''accompanying'' and ''following to join'' in subparagraph (A)(ii), the death of a principal alien described in paragraph (1)(B)(i) shall be disregarded.

(3) GRANDPARENTS OR LEGAL GUARDIANS OF ORPHANS.—An alien is described in this subsection if the alien is a grandparent or legal guardian of a child whose parents died as a direct result of a specified hurricane disaster, if either of the deceased parents was, as of August 26, 2005, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) PRIORITY DATE.—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.

(d) NUMERICAL LIMITATIONS.—In applying sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants who are not described in subparagraph (A), (B), (C), or (K) of section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)).

SEC. 514. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), 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—

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

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

(2) ALIENS DESCRIBED.—

(A) PRINCIPAL ALIENS.—An alien is described in this paragraph if the alien was disabled as a direct result of a specified hurricane disaster.

(B) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien, as of August 26, 2005, was the spouse or child of—

(i) a principal alien described in subparagraph (A); or

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

(3) AUTHORIZED EMPLOYMENT.—During the period in which a principal alien or alien spouse is in lawful nonimmigrant status under paragraph (1), the alien may be provided an ''employment authorized'' endorsement or other appropriate document signifying authorization of employment.

(b) NEW DEADLINES FOR EXTENSION OR CHANGE OF NONIMMIGRANT STATUS.—

(1) FILING DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, was prevented from filing a timely application for an extension or change of nonimmigrant status 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 one year after it would have otherwise been due.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) mail or courier service cessations or delays;

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

(iv) mandatory evacuation and relocation; or

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

(2) DEPARTURE DELAYS.—

(A) IN GENERAL.—If 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 ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from 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 relocation; or

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

(c) DIVERSITY IMMIGRANTS.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)), is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 1998, or for a subsequent fiscal year, may be issued, or adjustment of status under section 245(a) based upon the availability of such visa may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment in the fiscal year for which 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 201(e) for 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) 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.

(f) VOLUNTARY DEPARTURE.—

(1) IN GENERAL.—Notwithstanding section 240B 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 December 31, 2005, and the alien was unable to voluntarily depart before the expiration date as a direct result of a specified hurricane disaster, such voluntary departure period is 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.

(g) CURRENT NONIMMIGRANT VISA HOLDERS.—

(1) IN GENERAL.—An alien, who was lawfully present in the United States on August 26, 2005, as a nonimmigrant under section

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 upon the filing by a prospective employer of a new petition on behalf of such nonimmigrant not later than August 26, 2006.

(2) CONTINUATION OF 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 SURVIVING SPOUSES AND CHILDREN.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), 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, the alien (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death if the alien files a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after such date and only until the date on which the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under this paragraph shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) 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, if the citizen died as a direct result of a specified hurricane disaster, the alien may be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), 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.

(B) PETITIONS.—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. 1153(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 that assigned 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 petition 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 August 26, 2005. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) 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 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 was, 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 lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) APPLICATIONS BY SURVIVING SPOUSES AND CHILDREN OF REFUGEES AND ASYLEES.—

(1) IN GENERAL.—Any alien who, on August 26, 2005, was the spouse or child of an alien described in paragraph (2), may have his or her eligibility to be admitted under sections 207(c)(2)(A) or 208(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A), 1158(b)(3)(A)) considered as if the alien's 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 208 of such Act (8 U.S.C. 1158).

(e) WAIVER OF PUBLIC CHARGE GROUNDS.—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 or as a direct result of a specified hurricane disaster.

SEC. 517. AGE-OUT PROTECTION.

In administering the immigration laws, the Secretary and the Attorney General may grant any application or benefit notwithstanding the applicant or beneficiary (including a derivative beneficiary of the applicant or beneficiary) reaching an age that would render the alien ineligible for the benefit sought, if the alien's failure to meet the age requirement occurred as a direct result of a specified hurricane disaster.

SEC. 518. EMPLOYMENT ELIGIBILITY VERIFICATION.

(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 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.

(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 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 oath of allegiance, or requiring residence to be maintained or any action to be taken in any specific district or State within the United States.

SEC. 520. DISCRETIONARY AUTHORITY.

The Secretary or the Attorney General may waive violations of the immigration laws committed, on or before March 1, 2006, by an alien—

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

(2) whose failure to comply with the immigration laws was a direct result of a specified hurricane disaster.

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 instruct 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 identity 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 shall carry out the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing

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, information collection, 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. 524. NOTICES OF CHANGE 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 enactment of this legislation, the alien shall have 30 days after notice of enactment of this legislation to 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 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.

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, 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) 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.

SA 4153. 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. ___. VOTER VERIFIED BALLOTS.

(a) VERIFICATION.—

(1) IN GENERAL.—Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraph:

''(7) VOTER VERIFIED BALLOTS.—In order to meet the requirements of paragraph (1)(A)(i), on and after January 1, 2009:

''(A) The voting system shall provide an independent means of voter verification which meets the requirements of subparagraph (B) and which allows each voter to verify the ballot before it is cast and counted.

''(B) A means of voter verification meets the requirements 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 audio record.

''(iii) A pictorial record.

''(iv) An electronic record or other means that provides for voter verification that is accessible for individuals 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 (ii), (iii), 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 purchased 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 (42 U.S.C. 15481(a)(1)(A)(i)) is amended by inserting ''and consistent with the requirements of paragraphs (2), (4), and (7)'' after ''independent manner''.

(b) GUIDANCE.—

(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. 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 meeting the audit requirements of section 301(a)(2).''.

(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. 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) 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 inserting after paragraph (4) the following new paragraph:

''(5) A description of the progress on implementing the voter verified ballot requirements of section 301(a)(7) and the impact of the use of such requirements on the accessibility, privacy, security, usability, and auditability of voting systems.''.

(2) STATE REPORTS.—Section 258 of the Help America Vote Act of 2002 (42 U.S.C. 15408) is amended by striking ''and'' at the end of paragraph (2), by striking 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 Commission of the progress on implementing the voter verified ballot requirements of section 301(a)(7).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

SA 4154. 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. ___. REQUIREMENTS FOR COUNTING PROVISIONAL 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 is cast within the State, the State shall count such ballot if the individual who cast such ballot is otherwise eligible to vote.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (e) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(e)), as redesignated under subsection (a), is amended by adding at the end the following:

''(2) EFFECTIVE DATE FOR STATEWIDE COUNTING OF PROVISIONAL BALLOTS.—Each State shall be required to comply with the requirements of subsection (d) on and after January 1, 2007.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(e)), as redesignated under subsection (a), is amended by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), each''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2007.

SA 4155. 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. ___. IMPARTIAL ADMINISTRATION OF ELECTIONS.

(a) 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. 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.—

''(1) IN GENERAL.—Each State shall allow uniform and nondiscriminatory access to any polling place for purposes of observing a Federal election to—

''(A) party challengers;

''(B) voting rights and civil rights organizations; and

''(C) nonpartisan domestic observers and international observers.

''(2) NOTICE OF DENIAL OF OBSERVATION REQUEST.—Each State shall issue a public notice with respect to any denial of a request by any 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. 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 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. ___. 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 mail voter registration form shall include an affidavit to be signed by the registrant attesting both to citizenship and age; and

''(ii) subparagraph (B) shall not apply.''.

(b) INTERNET REGISTRATION.—

(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. INTERNET REGISTRATION.

''(a) INTERNET REGISTRATION.—Each State shall establish a program under which individuals may access and submit voter registration forms electronically through the Internet.

''(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''.

(c) STANDARDS FOR INTERNET REGISTRATION.—

(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. STANDARDS FOR INTERNET REGISTRATION PROGRAMS.

''The Commission shall establish standards regarding 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 (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. 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 or section 304.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

SA 4157. 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. ___. ESTABLISHING VOTER IDENTIFICATION.

(a) IN GENERAL.—

(1) IN PERSON VOTING.—Clause (i) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(i)) is amended by striking ''or'' at the end of subclause (I) and by adding at the end the following new subclause:

''(III) executes a written affidavit attesting to such individual's identity; or''.

(2) VOTING BY MAIL.—Clause (ii) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking ''or'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ''; or'', and by adding at the end the following new subclause:

''(III) a written affidavit, executed by such individual, attesting to such individual's identity.''.

(b) STANDARDS FOR VERIFYING VOTER INFORMATION.—

(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. VOTER IDENTIFICATION.

''The Commission shall develop standards for verifying the identification information required under section 303(a)(5) in connection with the registration of an individual to vote in a Federal election.''.

(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. 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. ___. INTEGRITY OF VOTER REGISTRATION LIST.

(a) 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. 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 of paragraph (2).

''(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 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. ___. 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:

''SEC. 304. ELECTION DAY REGISTRATION.

''(a) IN GENERAL.—

''(1) REGISTRATION.—Notwithstanding section 8(a)(1)(D) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6), each State shall permit any individual on the day of a Federal election—

''(A) to register to vote in such election at the polling place using the form established by the Election Assistance Commission pursuant to section 297; and

''(B) to cast a vote in such election.

''(2) EXCEPTION.—The requirements under paragraph (1) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this section, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

''(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) 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) ELECTION DAY REGISTRATION FORM.—

(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. 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. 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 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:

At the appropriate place, insert the following:

SEC. ___. EARLY VOTING.

(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:

"SEC. 304. 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 REQUIREMENTS.—Each polling place which allows voting 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 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 subtitle:

"Subtitle E—Guidance and Standards

"SEC. 297. STANDARDS FOR EARLY VOTING.

''(a) IN GENERAL.—The Commission shall issue standards for the administration of voting prior to the day scheduled for a Federal election. Such standards shall include the nondiscriminatory geographic placement of polling places at which such voting occurs.

''(b) DEVIATION.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from any requirement in the case of unforseen 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. 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 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. ___. MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS IN POLLING PLACES.

(a) MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.—

(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.—

(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. 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 allocation requirements in the case of unforseen 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. 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 or section 304.''.

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

SA 4162. 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. ___. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) IN GENERAL.—

(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. 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 PROCESSING.—

''(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 date of the election or the date 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 may 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 that 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. 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 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:

TITLE ____—VOTING OPPORTUNITY AND TECHNOLOGY ENHANCEMENT

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Voting Opportunity and Technology Enhancement Rights Act of 2006''.

SEC. ____02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The right of all eligible citizens to vote and have their vote counted is the cornerstone of a democratic form of government and the core precondition of government of the people, by the people, and for the people.

(2) The right of citizens of the United States to vote is a fundamental civil right guaranteed under the United States Constitution.

(3) Congress has an obligation to reaffirm the right of each American to have an equal opportunity to vote and have that vote counted in Federal elections, regardless of color, ethnicity, disability, language, or the resources of the community in which they live.

(4) Congress has an obligation to ensure the uniform and nondiscriminatory exercise of that right by removing barriers in the form of election administration procedures and technology and insufficient and unequal resources of State and local governments.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To secure the opportunity to participate in democracy for all eligible American citizens by establishing a national Federal write-in absentee ballot for Federal elections.

(2) To expand and establish uniform and nondiscriminatory requirements and standards to remove administrative procedural barriers and technological obstacles to casting a vote and having that vote counted in Federal elections.

(3) To expand and establish uniform and nondiscriminatory requirements and standards to provide for the accessibility, accuracy, verifiability, privacy, and security of all voting systems and technology used in Federal elections.

(4) To provide a Federal funding mechanism for the States to implement the requirements and standards to preserve and protect voting rights and the integrity of Federal elections in the United States.

SEC. ____03. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) IN GENERAL.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by adding at the end the following new subtitle:

''Subtitle C—Additional Requirements

''SEC. 321. 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 298 to cast a vote in an election for Federal office.

''(b) SUBMISSION AND PROCESSING.—

''(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 date of the election or the date 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 may 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 that 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 subtitle C''.

(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.''.

(c) COORDINATION WITH UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.—

(1) IN GENERAL.—The Presidential designee under the Uniformed and Overseas 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.—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).

SEC. ____04. VOTER VERIFIED BALLOTS.

(a) VERIFICATION.—

(1) IN GENERAL.—Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraph:

''(7) VOTER VERIFIED BALLOTS.—In order to meet the requirements of paragraph (1)(A)(i), on and after January 1, 2009:

''(A) The voting system shall provide an independent means of voter verification which meets the requirements of subparagraph (B) and which allows each voter to

verify the ballot before it is cast and counted.

''(B) A means of voter verification meets the requirements 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 audio record.

''(iii) A pictorial record.

''(iv) An electronic record or other means that provides for voter verification that is accessible for individuals 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 (ii), (iii), 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 purchased 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 (42 U.S.C. 15481(a)(1)(A)(i)) is amended by inserting ''and consistent with the requirements of paragraphs (2), (4), and (7)'' after ''independent manner''.

(b) GUIDANCE.—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 section:

''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 meeting 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 inserting after paragraph (4) the following new paragraph:

''(5) A description of the progress on implementing the voter verified ballot requirements of section 301(a)(7) and the impact of the use of such requirements on the accessibility, privacy, security, usability, and auditability of voting systems.''.

(2) STATE REPORTS.—Section 258 of the Help America Vote Act of 2002 (42 U.S.C. 15408) is amended by striking ''and'' at the end of paragraph (2), by striking 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 Commission of the progress on implementing the voter verified ballot requirements of section 301(a)(7).''.

SEC. ___05. REQUIREMENTS FOR COUNTING PROVISIONAL 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 is cast within the State, the State shall count such ballot if the individual who cast such ballot is otherwise eligible to vote.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (e) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(e)), as redesignated under subsection (a), is amended by adding at the end the following:

''(2) EFFECTIVE DATE FOR STATEWIDE COUNTING OF PROVISIONAL BALLOTS.—Each State shall be required to comply with the requirements of subsection (d) on and after January 1, 2007.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(e)), as redesignated under subsection (a), is amended by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), each''.

SEC. ___06. MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS IN POLLING PLACES.

(a) IN GENERAL.—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. 322. 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 299A.

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

(b) STANDARDS.—Subtitle E 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. 299. 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 allocation requirements in the case of unforseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.''.

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.—

''(1) REGISTRATION.—Notwithstanding section 8(a)(1)(D) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6), each State shall permit any individual on the day of a Federal election—

''(A) to register to vote in such election at the polling place using the form established by the Election Assistance Commission pursuant to section 297; and

''(B) to cast a vote in such election.

''(2) EXCEPTION.—The requirements under paragraph (1) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this section, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

''(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2009.''.

(b) ELECTION DAY REGISTRATION FORM.—Subtitle E 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. 299A. ELECTION DAY REGISTRATION FORM.

''The Commission shall develop an election day registration form for elections for Federal office.''.

SEC. ___08. INTEGRITY OF VOTER REGISTRATION LIST.

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. 324. 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 of paragraph (2).

''(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 required to comply with the requirements of this section on and after January 1, 2009.''.

SEC. ___09. EARLY VOTING.

(a) IN GENERAL.—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. 325. 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 REQUIREMENTS.—Each polling place which allows voting 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 required to comply with the requirements of this section on and after January 1, 2009.''.

(b) STANDARDS FOR EARLY VOTING.—Subtitle E 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. 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 Federal election. Such standards shall include the nondiscriminatory geographic placement of polling places at which such voting occurs.

''(b) DEVIATION.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from any requirement in the case of unforseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.''.

SEC. ___10. ACCELERATION OF STUDY ON ELECTION DAY AS A PUBLIC HOLIDAY.

(a) IN GENERAL.—Section 241 of the Help America Vote Act of 2002 (42 U.S.C. 15381) is

amended by adding at the end the following new subsection:

''(d) REPORT ON ELECTION DAY.—

''(1) IN GENERAL.—The report required under subsection (a) with respect to election administration issues described in subsection (b)(10) shall be submitted not later than 6 months after the date of the enactment of the Voting Enhancement and Technology Accuracy Rights Act of 2006.

''(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 210 for fiscal year 2007, $100,000 shall be authorized solely to carry out the purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

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. 15481(a)(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 mail voter registration form shall include an affidavit to be signed by the registrant attesting both to citizenship and age; and

''(ii) subparagraph (B) shall not apply.''.

(b) INTERNET REGISTRATION.—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. 326. INTERNET REGISTRATION.

''(a) INTERNET REGISTRATION.—Each State shall establish a program under which individuals may access and submit voter registration forms electronically through the Internet.

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

(c) STANDARDS FOR INTERNET REGISTRATION.—Subtitle E 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. 299C. STANDARDS FOR INTERNET REGISTRATION PROGRAMS.

''The Commission shall establish standards regarding the design and operation of programs which allow electronic voter registration through the Internet.''.

SEC. ___13. ESTABLISHING VOTER IDENTIFICATION.

(a) IN GENERAL.—

(1) IN PERSON VOTING.—Clause (i) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(i)) is amended by striking ''or'' at the end of subclause (I) and by adding at the end the following new subclause:

''(III) executes a written affidavit attesting to such individual's identity; or''.

(2) VOTING BY MAIL.—Clause (ii) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking ''or'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ''; or'', and by adding at the end the following new subclause:

''(III) a written affidavit, executed by such individual, attesting to such individual's identity.''.

(b) STANDARDS FOR VERIFYING VOTER INFORMATION.—Subtitle E 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. 299D. VOTER IDENTIFICATION.

''The Commission shall develop standards for verifying the identification information required under section 303(a)(5) in connection with the registration of an individual to vote in a Federal election.''.

SEC. ___14. IMPARTIAL ADMINISTRATION OF ELECTIONS.

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. 327. 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.—

''(1) IN GENERAL.—Each State shall allow uniform and nondiscriminatory access to any polling place for purposes of observing a Federal election to—

''(A) party challengers;

''(B) voting rights and civil rights organizations; and

''(C) nonpartisan domestic observers and international observers.

''(2) NOTICE OF DENIAL OF OBSERVATION REQUEST.—Each State shall issue a public notice with respect to any denial of a request by any 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.''.

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 44, United States Code, is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), 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. 15239) is amended—

(1) by striking ''The Commission'' and inserting the following:

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

(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.''.

(d) NIST AUTHORITY.—Subtitle E 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. 299E. TECHNICAL SUPPORT.

''At the request of the Commission, the Director of the National Institute of Standards and Technology shall provide the Commission with technical support necessary for the Commission to carry out its duties under this title.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 210 of the Help America Vote Act of 2002 (42 U.S.C. 15330) is amended by striking ''for each of fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed $10,000,000 for each such year)'' and inserting ''$23,000,000 for fiscal year 2006 (of which $3,000,000 are authorized solely to carry out the purposes of section 299E) and such sums as may be necessary for succeeding fiscal years''.

SEC. ___16. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 257 of the Help America Vote Act of 2002 (42 U.S.C. 15408(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 __10 and subsection (b), the amendments made by this title shall take effect on January 1, 2009.

(b) PROVISIONAL BALLOTS.—The amendments made by sections __05, __15, and __16, shall take effect on January 1, 2007.

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. ___. REDUCTION IN IMMIGRANT VISAS.

(a) ESTIMATE OF BIRTHS TO ILLEGAL ALIENS.—The Secretary, in consultation with the Commissioner of Social Security, shall annually estimate the number of 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 107, strike lines 15 through 18.

SA 4166. 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:

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) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and these 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 immediate relatives 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;

''(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 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 C of title I, insert the following:

SEC. 133. WESTERN HEMISPHERE 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 the United States and Mexico, with 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 an estimated 10,100,000 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 HEMISPHERE 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 develop a 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 be authorized 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 United States 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 same information as is required to determine citizenship, identity, 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 NEXUS, NEXUS AIR, 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 technology to add expedited travel features to the Passport Card is not developed by that date.

(B) TECHNOLOGY.—The Secretary and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department, allows for future technological innovations, and ensures maximum facilitation at the northern and southern borders.

(8) SPECIFICATIONS FOR CARD.—A Passport Card shall be easily portable and durable. The Secretary of State and the Secretary shall consult regarding the other technical specifications of the Card, including whether the security features of the Card could be combined with other existing identity documentation.

(9) FEE.—

(A) IN GENERAL.—An applicant for a Passport Card shall submit an application under paragraph (6) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Fees for a Passport Card shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended.

(B) LIMITATION ON FEES.—The Secretary of State shall seek to make such fees as low as possible and less than $24. If the Secretary of State, the Secretary, and the Postmaster General jointly certify to Congress that such fees represent the lowest possible cost of issuing Passport Cards and provide a detailed cost analysis for any such fee that is more than $24, fees may exceed $24 but may not exceed $34.

(C) REDUCTION OF FEE.—The Secretary of State shall reduce the fee for a Passport Card for an individual who submits an application for a Passport Card together with an application for a United States passport.

(D) WAIVER OF FEE FOR CHILDREN.—The Secretary of State shall waive the fee for a Passport Card for a child under 18 years of age.

(E) AUDIT.—In the event that the fee for a Passport Card exceeds $24, the Comptroller General of the United States shall conduct an audit to determine whether Passport Cards are issued at the lowest possible cost.

(10) ACCESSIBILITY.—In order to make the Passport Card easily obtainable, an application for a Passport Card shall be accepted in the same manner and at the same locations as an application for a United States passport.

(11) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a Passport Card.

(d) STATE ENROLLMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, the Secretary of State and the Secretary shall enter into a memorandum of understanding with 1 or more appropriate States to carry out at least 1 demonstration program as follows:

(A) A State may include an individual's United States citizenship status on a driver's license which meets the requirements of section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note).

(B) The Secretary of State shall develop a mechanism to communicate with a participating State to verify the United States citizenship status of an applicant who voluntarily seeks to have the applicant's United States citizenship status included on a driver's license.

(C) All information collected about the individual shall be managed exclusively in the same manner as information collected through a passport application and no further distribution of such information shall be permitted.

(D) A State may not require an individual to include the individual's citizenship status on a driver's license.

(E) Notwithstanding any other provision of law, a driver's license which meets the requirements of this paragraph shall be deemed to be sufficient documentation to permit the bearer to enter the United States

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, for additional foreign countries, and in a manner that permits the use of additional types of identification documents to prove identity under the program.

(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; and

(C) the security of travel documents that meet the requirements of the program compared with other travel documents.

(5) RECIPROCITY WITH CANADA.—Notwithstanding any other provision of law, the Secretary of State and Secretary are authorized to work with appropriate authorities of Canada to certify identification issued by the Government of Canada, including a driver's license, as meeting security requirements similar to the requirements under the REAL ID Act of 2005 (division B of Public Law 109–13) and including a citizenship verification mechanism. To the maximum extent possible, the Secretary shall work to ensure that Canadian identification documents used as described in this paragraph contain the same technology as United States 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 States are participants 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 to all 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 entered into 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. The Secretary, in consultation with the appropriate officials of the Government of Canada, shall equip at least 6 additional northern border crossings with NEXUS technology.

(2) SEA CROSSINGS.—The Commissioner of Customs and Border Patrol shall conduct and expand trusted traveler programs and 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 has not been issued a United States 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 for, a citizen 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 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 upon a demonstration of citizenship satisfactory to the officer. Officers of the United States Customs and Border Patrol shall educate such individuals about documentary requirements.

(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, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the provisions of this Act, to facilitate the acquisition of appropriate documentation to travel to Canada, Mexico, the countries located in the Caribbean, and Bermuda, and to educate United States citizens who are unaware of the requirements for such travel. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, Amtrak stations, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico and other ports of entry;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the collection and analysis of data to measure the success of the public promotion plan; and

(4) additional measures as appropriate.

(i) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) until the later of June 1, 2009, or the date that is 3 months after the Secretary of State and the Secretary certify to Congress that—

(1)(A) if the Secretary and the Secretary of State develop and issue Passport Cards under this section—

(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 not earlier than 10 days prior to the date of certification;

(ii) Passport Cards are provided to applicants, on average, within 4 weeks of application or within the same period of time required to adjudicate a passport; and

(iii) a successful pilot has demonstrated the effectiveness of the Passport Card; or

(B) if the Secretary and the Secretary of State do not develop and issue Passport Cards under this section and develop a program to issue an alternative document that satisfies 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 identity 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.

(j) AUTHORIZATION OF APPROPRIATIONS.—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:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

SA 4170. 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 400, 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 required under 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:

Beginning on page 407, strike line 18, and all that follows through page 408, line 9 and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed not less than the following agricultural employment:

(I) IN GENERAL.—Except as provided in subclause (II), the alien has performed at least—

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

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

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to have met the agricultural employment requirements described in subclause (I) if the alien has performed 4 years of agricultural employment in the Untied States for at least 150 work days during three of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

SA 4172. 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, between lines 21 and 22, insert the following:

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

On page 410, strike lines 18 through 20, and insert the following:

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

On page 413, strike lines 22 through 24, and insert the following:

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

SA 4173. 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 428, strike lines 8 through 11, and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 and 2008 such sums as may be necessary to carry out this section, including carrying out the initial actions necessary to beginning conferring blue card status to aliens.

SA 4174. 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 417, line 10, strike ''paragraph (1)(A)(i)(II)'' and insert ''paragraph (1)(A)(ii)''.

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 WORKER PROGRAM

SEC. 615. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

Section 218 (8 U.S.C. 1188) is amended to read as follows:

''SEC. 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 provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(i) the assurances described in paragraph (2);

''(ii) a description of the nature and location of the work to be performed;

''(iii) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(iv) the number of job opportunities in which the employer seeks to employ the workers.

''(B) ACCOMPANIED BY JOB OFFER.—Each application filed under subparagraph (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 qualifications that shall be possessed 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:

''(A) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(i) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(ii) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(iii) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this subparagraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(iv) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(v) OFFERS TO UNITED STATES WORKERS.—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 the nonimmigrants are, sought and who will be available at the time and place of need.

''(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 will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(B) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(i) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(ii) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(iii) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (b) to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

''(iv) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(v) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(I) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

''(II) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(III) 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.

''(vi) 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 displaces a United States worker as described in such clause.

''(vii) 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.

''(viii) EMPLOYMENT OF UNITED STATES WORKERS.—

''(I) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(aa) CONTACTING FORMER WORKERS.—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 applying for workers 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, unless the worker 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 which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(cc) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 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 advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(dd) EMERGENCY PROCEDURES.—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 nonimmigrants are, sought and who will be available at the time and place of need.

''(III) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

''(aa) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this subclause.

''(bb) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of item (aa) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, not later than 36 hours after the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary shall immediately suspend the application of this subclause with respect to that certification for that date of need.

''(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.

''(IV) STATUTORY CONSTRUCTION.—Nothing in this clause shall be construed to prohibit an employer from using such legitimate 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.

''(3) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(A) 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 has or have agreed in writing to comply with the requirements of this section.

''(B) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under subparagraph (A) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under paragraph (5)(B)(ii) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(4) WITHDRAWAL OF APPLICATIONS.—

''(A) 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 of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application filed under paragraph (1), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(B) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under paragraph (1) is unaffected by withdrawal of such application.

''(5) REVIEW AND APPROVAL OF APPLICATIONS.—

''(A) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, not later than 1 working day after the date on which an application is filed under paragraph (1), at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

''(B) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(i) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this paragraph. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(ii) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary shall certify that the intending employer has filed with the Secretary an application described in paragraph (1). Such certification shall be provided not later than 7 days after the application is filed.

''(b) EMPLOYMENT REQUIREMENTS.—

''(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers not less than the same 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 impose on United States workers any restrictions or obligations that will not be imposed on the employer's H–2A workers.

''(2) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required under paragraph (1), in order to protect similarly employed United States 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 all workers in job opportunities for which the employer has applied under that subsection and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(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, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State 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 that address 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 or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(vi) CHARGES FOR HOUSING.—

''(I) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(II) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not 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 instead of offering housing under clause (i). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended 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 subclause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing 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 migrant farm workers, and H–2A workers, who are seeking temporary housing while employed 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 of the workers provided an allowance under this clause is a nonmetropolitan county, the amount of the housing allowance under this clause shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary 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 assumption of 2 persons per bedroom.

''(bb) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this clause is in a 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 metropolitan counties for the State, as established by the Secretary 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 assumption of 2 persons per bedroom.

''(B) REIMBURSEMENT OF TRANSPORTATION.—

''(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 hired shall be reimbursed by the employer 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 employment, if the worker traveled from such place) to the place of employment.

''(ii) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(iii) LIMITATION.—

''(I) AMOUNT OF REIMBURSEMENT.—Except as provided in subclause (II), the amount of reimbursement provided under clause (i) or (ii) to a worker or alien shall not exceed the lesser of—

''(aa) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(bb) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(II) DISTANCE TRAVELED.—No reimbursement under clause (i) or (ii) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance provided under subparagraph (A)(vii).

''(iv) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in subparagraph (D)(iv)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by clause (ii) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by clause (i).

''(v) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(C) REQUIRED WAGES.—

''(i) IN GENERAL.—An employer applying for workers under subsection (a)(1) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(ii) LIMITATION.—Effective on the date of the enactment of the AgJOBS Act of 2006, and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(iii) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(I) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this subsection before the first March 1 that is not less than 3 years after the date of the enactment of AgJOBS Act of 2006, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(aa) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(bb) 4 percent.

''(II) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of the enactment of the AgJOBS Act of 2006, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(aa) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(bb) 4 percent.

''(iv) DEDUCTIONS.—The employer shall make only 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 employment, whichever is more frequent.

''(vi) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before 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.

''(vii) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller 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 agricultural work force 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 of United States farm workers 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 level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(V) recommendations for future wage protection under this subsection.

''(viii) COMMISSION ON 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 agricultural employers and 1 shall be a representative of the Department of Agriculture, each appointed by the Secretary of Agriculture; and

''(bb) 4 shall be representatives of agricultural workers and 1 shall be a representative of the Department of Labor, each appointed by the Secretary of Labor.

''(III) FUNCTIONS.—The Commission shall conduct a study that addresses—

''(aa) whether the employment of H–2A or unauthorized aliens in the United States agricultural 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 farm workers 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;

''(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; and

''(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.

''(D) 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 Sabbath and Federal holidays. If 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 so work, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(iii) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in clause (i).

''(iv) 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 worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in subparagraph (B)(iv).

''(E) MOTOR VEHICLE SAFETY.—

''(i) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(I) IN GENERAL.—Except as provided in subclauses (III) and (IV), this subparagraph applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(II) DEFINED TERM.—In this subparagraph, the term 'uses or causes to be used'—

''(aa) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(bb) does not apply to—

''(AA) 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.

''(III) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(IV) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subparagraph does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental to such activities.

''(V) COMMON CARRIERS EXCLUDED.—This subparagraph does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(ii) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(I) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(aa) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(bb) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(cc) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(II) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required under subclause (I)(cc) shall be determined by the Secretary of Labor pursuant to regulations to be issued under this paragraph.

''(III) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of clause (ii)(I)(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 workers are transported only under circumstances for which there is coverage under such State law.

''(bb) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(3) 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.).

''(4) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in subsection (a)(1), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(5) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''(c) PROCEDURE FOR ADMISSION AND EXTENSION OF STAY.—

''(1) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent 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, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate if the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

''(3) CRITERIA FOR ADMISSIBILITY.—

''(A) IN GENERAL.—An H–2A worker shall be considered admissible to the United States 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 and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(i) violated a material provision of this subsection, including the requirement to promptly depart the United States when the alien's authorized period of admission under this subsection has expired; or

''(ii) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period

of authorized admission as such a nonimmigrant.

''(C) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(i) 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 subparagraphs (A) and (B), shall not be deemed inadmissible under section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien 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 provided an initial waiver of ineligibility 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)(5)(B)(ii), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(i) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(ii) the total period of employment, including such 14-day period, may not exceed 10 months.

''(B) CONSTRUCTION.—Nothing in this paragraph shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(5) ABANDONMENT OF EMPLOYMENT.—

''(A) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(B) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(C) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(D) VOLUNTARY TERMINATION.—Notwithstanding subparagraph (A), an alien may voluntarily terminate the alien's employment if the alien promptly departs the United States upon termination of such employment.

''(6) REPLACEMENT OF ALIEN.—

''(A) IN GENERAL.—Upon notification to the Secretary under paragraph (5)(B), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(i) who abandons or prematurely terminates employment; or

''(ii) whose employment is terminated after a United States worker is employed pursuant to subsection (a)(2)(B)(viii)(III), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(B) CONSTRUCTION.—Nothing in this paragraph shall limit any preference required to be accorded United States workers under any other provision of this Act.

''(7) IDENTIFICATION DOCUMENT.—

''(A) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(B) REQUIREMENTS.—An identification and employment eligibility document may be issued only if it meets the following requirements:

''(i) The document shall be capable of reliably determining whether—

''(I) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(II) the individual whose eligibility is being verified is claiming the identity of another person; and

''(III) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(ii) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(iii) The document shall—

''(I) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(II) 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 in the alien's employment.

''(B) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(i) for a period of more than 10 months; or

''(ii) to a date that is more than 3 years after the date of the alien's last admission to the United States under this subsection.

''(C) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(i) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under subparagraph (A) on the date on which the petition is filed.

''(ii) DEFINITION.—In clause (i), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(iii) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(iv) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of subparagraph (A), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(i) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(ii) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(I) IN GENERAL.—Subject to subclause (II), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least 20 percent of the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(II) EXCEPTION.—Subclause (I) shall not apply if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(9) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the AgJOBS Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(A) may be admitted for an initial period of 12 months;

''(B) subject to paragraph (10)(E), may have such initial period of admission extended for a period of up to 3 years; and

''(C) 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)(iii).

''(B) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(i) the alien's employer on behalf of an eligible alien; or

''(ii) the eligible alien.

''(C) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa for

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 described in subparagraph (B) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(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.

''(d) WORKER PROTECTIONS 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 a petitioner's failure to meet a condition under subsection (a)(2), or an employer's misrepresentation of material facts in an application under subsection (a)(1). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a 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 conduct an investigation under this clause if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(ii) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, not later than 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in clause (iii), (iv), (v), or (vii). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, not later than 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this clause on such complaints.

''(iii) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subparagraph (A)(i), (A)(ii), (A)(iv), (A)(vi), (B)(i), (B)(ii), or (B)(vii) of subsection (a)(2), a substantial failure to meet a condition of subparagraph (A)(iii), (A)(v), (B)(iii), (B)(iv), (B)(v), or (B)(viii) of subsection (a)(2), or a material misrepresentation of fact in an application under subsection (a)(1)—

''(I) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(II) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(iv) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of subsection (a)(2), a willful misrepresentation of a material fact in an application under subsection (a)(2), or a violation of paragraph (4)(A)—

''(I) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(II) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of paragraph (4)(A); and

''(III) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(v) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of subsection (a)(2) or a willful misrepresentation of a material fact in an application under subsection (a)(1), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under subsection (a)(1) or during the 30-day period preceding such period of employment—

''(I) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(II) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(vi) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under subsection (a)(1) in excess of $90,000.

''(vii) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under subsection (b)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (b)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(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 any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section.

''(2) RIGHTS ENFORCEABLE 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 other right of action shall exist under Federal or State law to enforce such rights:

''(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 job offer described in subsection (a)(1)(B), not including the assurance to comply with other Federal, State, and local labor laws described in subsection (b)(3), compliance with which shall be governed by the provisions of such laws.

''(E) The guarantee of employment required under subsection (b)(2)(D).

''(F) The motor vehicle safety requirements under subsection (b)(2)(E).

''(G) The prohibition of discrimination under paragraph (4)(B).

''(3) 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 parties shall attempt mediation within the period specified in clause (iii).

''(ii) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under paragraph (2) between H–2A workers and agricultural employers without charge to the parties.

''(iii) 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.

''(iv) AUTHORIZATION.—

''(I) IN GENERAL.—Subject to subclause (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 Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to subclause (I). Such reimbursement shall be credited to appropriations available at the time of receipt.

''(B) 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 the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this section, not later than 3 years after the date the violation occurs.

''(C) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under subparagraph (B) unless a complaint based on the same violation filed with the Secretary of Labor under paragraph (1)(A) 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 no court or administrative action shall be available under any State contract law to enforce the rights created by this section.

''(E) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this section shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this section. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(F) 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.

''(G) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(i) 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, the workers' compensation benefits 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.

''(ii) PRECLUSION.—The exclusive remedy prescribed in clause (i) precludes the recovery under subparagraph (F) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(I) a recovery under a State workers' compensation law; or

''(II) rights conferred under a State workers' compensation law.

''(H) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under this paragraph shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(I) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subparagraph (A) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(J) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under paragraph (1)(A)(ii) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(4) DISCRIMINATION PROHIBITED.—

''(A) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under subsection (a)(1), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section subsection (a) or (b), or any rule or regulation pertaining to such subsections, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements such subsections or any rule or regulation pertaining to either of such subsections.

''(B) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under subsection (a)(1), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under paragraph (2) or instituted, or caused to be instituted, a private right of action under paragraph (3) regarding the denial of the rights under paragraph (2), or has testified or is about to testify in any court proceeding brought under paragraph (3).

''(5) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of paragraph (4) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(6) ROLE OF ASSOCIATIONS.—

''(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of subsections (a) and (b), as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(B) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this subsection, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''(e) DEFINITIONS.—In this section:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)), including employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

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

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more H–2A workers.

''(7) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(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) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in subsection (b)(1)(B)(iv)), or temporary layoffs due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under 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 accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under subsection (a) by an entity that is not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(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 any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

CHAPTER 3—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 reflect a fee rate 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, to include 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 final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment 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.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this subtitle and the amendments made by this subtitle.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this subtitle and the amendments made by this subtitle.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this subtitle and the amendments made by this subtitle.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, 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 a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(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)(4) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 613(a);

(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).

SA 4175. 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:

At the appropriate place, insert the following:

SEC. ___. SENSE OF 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 federally funded cash welfare, nor should illegal aliens receive the earned income tax credit 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.

SA 4176. 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:

At the appropriate place, insert the following:

SEC. _____. RADIATION SOURCE PROTECTION.

(a) TRACKING SYSTEM.—Section 170H of the Atomic Energy Act of 1954 (42 U.S.C. 2210h) is amended—

(1) in subsection c.—

(A) in paragraph (1)(B)—

(i) by inserting ''and the Secretary of Homeland Security'' after ''Secretary of Transportation'' the first place it appears; and

(ii) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Transportation'' the second place it appears; and

(B) in paragraph (2)(A), by inserting ''and each license holder'' after ''unique identifier''; and

(2) by adding at the end the following:

''h. LICENSE VERIFICATION FOR EXPORTS AND IMPORTS.—The Commission shall—

''(1) assist the Bureau of Customs and Border Protection of the Department of Homeland Security in verifying any documentation or authorization issued by the Commission associated with the export or import of a radiation source regulated under this section, including allowing the Department of Homeland Security access to the tracking system established under subsection c.; and

''(2) require any individual transporting radiation sources that are exported from or imported into the United States to possess the applicable and required documentation issued by the Commission.''.

(b) CUSTOMS REVENUE FUNCTION.—Section 415 of the Homeland Security Act of 2002 (6 U.S.C. 215) is amended by adding at the end the following:

''(9) Verifying the authorizations issued by the Nuclear Regulatory Commission to possess and transport radiation sources when individuals pass through United States ports of entry.''.

SA 4177. Mr. GRASSLEY (for himself, Mr. OBAMA, Mr. BAUCUS, and 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, as follows:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 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) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

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

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, 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 for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(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—

''(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 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 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 another person, where such person hiring such alien fails to comply with the requirements of subsections (c) and (d).

''(4) DEFENSE.—

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

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

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

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

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

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

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

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

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

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

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

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

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

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

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

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

''(I) a United States passport; or

''(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 division B of Public Law 109–13 (119 Stat. 302);

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary;

''(iii) in the case of an alien who is authorized under this Act or by the Secretary to be employed in the United States, an employment authorization card, as specified by the Secretary that—

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

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use;

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that—

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

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use; or

''(v) 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, a document, or a combination of documents, of such type that, as of the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary had established by regulation were sufficient for purposes of this section.

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

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

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

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

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

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

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

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

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

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

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

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

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

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

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

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

''(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.

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

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

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

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

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

''(B) such individual is eligible for 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 all employees 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 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 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—

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

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

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(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 shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

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

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

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

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

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

''(8) DESIGN AND OPERATION OF SYSTEM.—

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

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

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

''(B) INITIAL INQUIRY.—

''(i) INFORMATION REQUIRED.—A registered employer shall, with respect to 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)—

''(I) the individual's name and date of birth and, if the individual was born in the United States, the State in which such individual was born;

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

''(III) the employment identification number of the individual's employer during any one of the 5 most recently completed calendar years; and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(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—

''(I) 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

''(II) in the case of an employee hired by a critical employer designated by the Secretary under paragraph (3)(B) at such time as the Secretary shall specify.

''(iii) EIN REQUIREMENTS.—

''(I) REQUIREMENT TO PROVIDE.—An employer shall provide the employer identification number issued to such employer to the individual, upon request, for purposes of providing the information under clause (i)(III).

''(II) REQUIREMENT TO AFFIRMATIVELY STATE A LACK OF RECENT EMPLOYMENT.—An individual providing information under clause (i)(III) who was not employed in the United States during any of the 5 most recently completed calendar years shall affirmatively state on the form described in subsection (c)(1)(A)(i) that no employer identification number is provided because the individual was not employed in the United States during such period.

''(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 notice, including the appropriate codes on such confirmation notice; or

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

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under 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 such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)((1)(A)(i).

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (c)(2), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

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

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or 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).

''(vi) AUTOMATIC FINAL NOTICE.—

''(I) IN GENERAL.—If a final notice is not issued within the 30-day period described in clause (v)(II), the Secretary shall automatically provide to the employer, through the System, the appropriate code indicating a final notice.

''(II) 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 (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice.

''(III) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice unless the most recent such report includes a certification that the System is able to correctly issue, within the period beginning on the date an employer submits an inquiry to the System and ending on the date an automatic default notice would be issued by the System, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States. If the most recent such report includes such a certification, the automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

''(IV) ADDITIONAL AUTHORITY.—Notwithstanding the second sentence of subclause (III), the Secretary shall have the authority to issue a final confirmation notice for an individual who would be subject to a final nonconfirmation notice under such sentence. In such a case, the Secretary shall determine the individual's eligibility for employment in the United States and record the results of such determination in the System within 12 months.

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

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

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

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

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

''(x) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the

Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(E) RESPONSIBILITIES OF THE SECRETARY.—

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

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

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

''(ii) ANNUAL REPORT AND CERTIFICATION.—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 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 the final notice relates to an individual who is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice); and

''(II) if the assessment under subclause (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 described in such subclause, a certification of such assessment.

''(iii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

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

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

''(II) the right to contest such notice;

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

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

''(v) 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 274B(a)(7) and 274C(a).

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

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

''(10) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 60 days after the date of such termination, file an appeal of such notice.

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

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

''(ii) the decision rules, processes, or procedures utilized by the System; or

''(iii) erroneous system information that was not the result of acts or omissions of the individual.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was not caused by an act or omission of the individual, the Secretary shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost 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.

''(E) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was ineligible for employment in the United States.

''(F) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall not be provided from funds appropriated in annual appropriations Acts to the Secretary for the Department of Homeland Security.

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 60 days after the date of such decision, or such further time as the Secretary may allow.

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

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

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph (10), the court shall compensate the individual for lost wages.

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

''(12) 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 other than—

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

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

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

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

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

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

''(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

''(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

''(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

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

''(13) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(14) ANNUAL GAO STUDY AND REPORT.—

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

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

''(C) REPORT.—Not later than the date that is 24 months after the date 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)(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 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 confirmations, on unfair 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 the duties and responsibilities of this section.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

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

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

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

''(i) describe the violation;

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

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

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

''(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice.

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

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

''(4) CIVIL PENALTIES.—

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

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

''(ii) 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 $10,000 for each unauthorized alien with respect to each such violation.

''(iii) 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 any such 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:

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

''(ii) 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 $4,000 for each such violation.

''(iii) 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 requirements, pay a civil penalty of not less than $600 and not more than $6,000 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, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 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 substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 46 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(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.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

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

''(g) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney's fees in this section shall be increased every 4 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 48 month period ending with September of the year preceding the year such adjustment

is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

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

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 5 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 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.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. 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 subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(j) MISCELLANEOUS PROVISIONS.—

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

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

''(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(l) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the 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' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

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

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

(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.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (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)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)''.

(d) AMENDMENTS 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 subparagraphs:

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 301(f)(2) of the Comprehensive Immigration Reform Act of 2006, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

''(I) a determination of whether the name, date of birth, employer identification number, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(II) a determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY 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 EMPLOYER 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—

''(I) 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

''(II) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—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 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 such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—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.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

''(I) the date such person begins to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under 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, 274B, and 274C of the Immigration and Nationality Act, and

''(iii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

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

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

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

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

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)'', and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2007.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

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

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

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

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(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 described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

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

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) 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;

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

''(C) except as 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 reverification 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-verification procedures established in section 274A(d)(8)(E)(iii).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

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

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

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

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2007 through 2009'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to violations occurring on or after such date.

Subsection (b) of section 402 is amended to read as follows:

(b) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on 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 the Electronic Employment Verification System established under 274A(d) of the Immigration and Nationality Act, as amended by section 301(a), with respect to aliens, who, on such effective date, are outside of the United States.

SA 4178. Mr. BAUCUS (for himself, Mr. CRAIG, Ms. CANTWELL, and Mr. BURNS) 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 12, line 1, strike ''(e)'' and insert the following:

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning 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.

(f)

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 for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. ACCESS FOR SHORT-TERM STUDY.

(a) REDUCED FEE FOR SHORT-TERM STUDY.—

(1) IN GENERAL.—Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended by striking the second sentence and inserting ''Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100, except that in 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 an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $35 and that in the case of an alien admitted under subparagraph (F) of such section 101(a)(15) for a program that will not exceed 90 days, the fee shall not exceed $35.''.

(2) TECHNICAL AMENDMENTS.—Such section 641(e)(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 issue appropriate guidance to consular officers to in order to give appropriate discretion, according to criteria developed at each post and approved by the Secretary of State, so that a course of a duration no more than 1 semester (or its equivalent), and not awarding certification, license or degree, is considered recreational in nature for purposes of determining appropriateness for visitor status.

(c) LANGUAGE TRAINING PROGRAMS.—

(1) REQUIREMENT FOR ACCREDITATION.—-Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i)) is amended by striking ''a language'' and inserting ''an accredited language''.

(2) REQUIREMENT FOR REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out the amendment made by paragraph (1). Such regulations shall—

(A) except as provided in subparagraphs (C) and (D), require that an accredited language training program described in section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) be accredited by an accrediting agency recognized by the Secretary of Education;

(B) require that if such an accredited language training program provides intensive language training, the head of such program provide the Secretary with documentation regarding the specific subject matter for which the program is accredited;

(C) permit an alien admitted as a nonimmigrant under such section 101(a)(15)(F)(i) to participate in a language training program that is not accredited as described in subparagraph (A) during the 2-year period beginning on the date of the enactment of this Act; and

(D) permit a language training program established after the date of the enactment of this Act and that is not accredited as described in subparagraph (A) to qualify as an accredited language training program under such section 101(a)(15)(F)(i) during the 2-year period beginning on the date such language training program is established.

SA 4180. Mr. FRIST 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, add the following:

SEC. _____. IDENTIFICATION REQUIREMENTS.

(a) REQUIREMENT FOR IDENTIFICATION CARDS TO INCLUDE CITIZENSHIP INFORMATION.—Subsection (b) of section 202 of the REAL ID Act of 2005 (49 U.S.C. 30301 note) is amended by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and by inserting after paragraph (7) the following new paragraph:

''(8) An indication of whether the person is a United States citizen.''.

(b) IDENTIFICATION REQUIRED FOR VOTING IN PERSON.—

(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. IDENTIFICATION OF VOTERS AT THE POLLS.

''(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present before voting a current valid photo identification which is issued by a governmental entity and which meets the requirements of subsection (b) of section 202 of the REAL ID Act of 2005 (49 U.S.C. 30301 note).

''(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after May 11, 2008.''.

(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''.

(c) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following:

''PART 7—PHOTO IDENTIFICATION

''SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATION.

''(a) IN GENERAL.—In addition to any other payments made under this subtitle, the Election Assistance Commission shall make payments to States to promote the issuance to registered voters of free photo identifications for purposes of meeting the identification requirements of section 304.

''(b) ELIGIBILITY.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

''(1) a statement that the State intends to comply with the requirements of section 304; and

''(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identifications which meet the requirements of such section.

''(c) USE OF FUNDS.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements of section 304.

''(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 total amount appropriated for payments under this part for the year under section 298; and

''(B) an amount equal to—

''(i) the 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).

''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. ___. EXCLUSION OF ILLEGAL ALIENS FROM CONGRESSIONAL APPORTIONMENT TABULATIONS.

In addition to any report 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 of 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 in Congress among the several States.

SEC. ___. 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 amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(b) 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), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(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 IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering from an accredited university in the United States, or an equivalent foreign degree, 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 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 anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) 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).

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

(2) in subsection (e)—

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

(B) by redesignating paragraph (3) as paragraph (4); and

(C) 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)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(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)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. ___. ADMISSION OF TEMPORARY GUEST WORKERS.

(a) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.), as amended by title IV and title VI, is further amended by inserting after section 218H the following:

''SEC. 218I. SECURE AUTHORIZED FOREIGN EMPLOYEE (SAFE) 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 (i), 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 if the alien—

''(1) 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);

''(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 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)(1), 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 national unemployment rate and the number of workers needed in 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 worker 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.

''(3) VISITS OUTSIDE UNITED STATES.—Under regulations established by the Secretary of Homeland Security, a SAFE visa worker—

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

''(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(4) LOSS OF EMPLOYMENT.—The period of authorized admission under this section shall terminate if the SAFE visa worker is unemployed for 60 or more consecutive days. Any SAFE visa worker whose period of authorized admission terminates under this paragraph shall be required to leave the United States.

''(5) RETURN TO COUNTRY OF ORIGIN.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has relinquished the SAFE visa and returned to the worker's country of origin.

''(6) 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.

''(f) EVIDENCE OF NONIMMIGRANT STATUS.—Each SAFE visa worker shall be issued a SAFE visa card, which—

''(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.

''(g) SOCIAL SERVICES.—

''(1) IN GENERAL.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

''(2) SOCIAL SECURITY.—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).

''(3) MEDICARE.—Amounts withheld from the SAFE visa workers' pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

''(h) PERMANENT RESIDENCE; CITIZENSHIP.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for legal permanent residence or a path towards United States citizenship.

''(i) NUMERICAL LIMITS.—

''(1) ANNUAL 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.

''(2) WAIVER.—The President may waive the limit under paragraph (1) for a specific fiscal year by certifying that additional foreign workers are needed in that fiscal year.

''(3) 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).

''(4) CONGRESSIONAL OVERSIGHT.—The President shall transmit to Congress all certifications authorized in this section.

''(5) ALLOCATION OF 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 will enter the United States pursuant to such visa during the first 6 months of such fiscal year.

''(j) SAVINGS PROVISION.—Nothing in this section shall be construed to affect any other visa program authorized by Federal law.

''(k) REPORTING REQUIREMENT.—Not later than 3 years after the implementation of the SAFE visa program, the President shall submit a detailed report to Congress on the status of the program, including the number of visas issued and the feasibility of expanding the program.

''(l) DEFINITIONS.—In this section:

''(1) 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 America-Dominican Republic-United States Free Trade Agreement.

''(2) SAFE VISA.—The term 'SAFE visa' means a visa authorized under this section.''.

(b) CLERICAL AMENDMENT.—The table of contents (8 U.S.C. 1101) is amended by inserting after the item relating to section 218H, as added by section 615, the following:

''Sec. 218I. Secure Authorized Foreign Employee Visa Program.''.

SEC. ___. BLUE CARD PROGRAM.

(a) WORK DAY DEFINED.—Notwithstanding paragraph (7) of section 612 of this Act, for the purposes of the AgJOBS Act of 2006, as added by subtitle B of title VI, 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.

(c) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005;

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

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (g)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this section or AgJOBS Act of 2006, as added by subtitle B of title VI, that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (e), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (g)(2);

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

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

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

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

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

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $1,000.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(d) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT FOR ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

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

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal

Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such 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 fee 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 findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the 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 affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (e)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

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

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

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for 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) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(e) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an 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:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least—

(I) 5 years of agricultural employment in the United States, for at least 100 work days 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 work days 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.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (c)(5); or

(II) such documentation as may be submitted under subsection (f)(3).

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

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

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

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

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $1,000.

(vi) ENGLISH LANGUAGE.—The alien has demonstrated an understanding of the English language, as required under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (g)(2);

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

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF INCOME TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required under paragraph (1)(A) by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been met; or

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

(ii) IRS COOPERATION.—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required under this paragraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (g)(2);

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

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(f) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (e) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (c), the Secretary—

(i) shall designate qualified farm labor organizations 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 submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this subtitle as ''qualified designated entities''.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (c)(1)(A) or (e)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (c)(1) or (e)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (c)(1)(A) or (e)(1)(A)).

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

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien 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 just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining 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 entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, 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 applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other 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, that 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 entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (c) or (e) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

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

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

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

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

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

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

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (c) and (e).

(g) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (c)(1)(C) or an alien's eligibility for adjustment of status under subsection (e)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

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

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

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

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

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

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (c)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien

may not apply for such status until the beginning 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 engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (e)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

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

(i) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (c) or (e) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(j) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (c)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(k) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(l) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2007 through 2010.

(n) APPLICATION OF OTHER PROVISIONS.—Section 613 of this Act is null and void.

SEC. ___. CONFIDENTIALLY OF INFORMATION SUBMITTED FOR EARNED ADJUSTMENT OF STATUS.

Notwithstanding section 601(b) of this Act, subsection (e) of section 245B of the Immigration and Nationality Act, as added by such section 601(b), is amended to read as follows:

''(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 competent jurisdiction, no Federal 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 determination 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 officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to—

''(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

''(B) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual 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; and

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

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

SEC. ___. EFFECTIVE DATE FOR NEW NONIMMIGRANT TEMPORARY WORKER CATEGORIES.

Notwithstanding subsection (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 established under 274A(d) of the Immigration and Nationality Act, as amended by section 301(a) of this Act, with respect to aliens, who, on such effective date, are outside of the United States.

SEC. ___. ELIGIBILITY FOR THE EARNED INCOME TAX CREDIT.

Notwithstanding section 601(b) of this Act, subsection (g) of section 245B of the Immigration and Nationality Act, as added by such section 601(b), is amended to read as follows:

''(g) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien who is unlawfully present in the United States, or an alien who receives an adjustment of status under subsection (n) of section 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 Reform Act of 2006, shall not be eligible for the Earned Income Tax Credit. With respect to benefits other than the Earned Income Tax Credit, an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601 et seq.).''.

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 ordered to lie on the table; as follows:

At the end of the amendment add the following:

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 following shall be applicable in lien thereof.

''(2) VISAS FOR SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).

''(B) NUMERICAL LIMITATION.—The total number of visas issued under paragraph (1)(A) and paragraph (2), excluding such visas issued to aliens pursuant to section 245B or section 245C of the Immigration and Nationality Act, may not exceed 650,000 during any fiscal year.

''(C) CONSTRUCTION.—Nothing in this paragraph may be construed to modify the requirement set out in 245B(a)(1)(I) or 245C(i)(2)(A) that prohibit an alien from receiving an adjustment of status to that of a legal permanent resident prior to the consideration 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 ordered to lie on the table; as follows:

At the end of the amendment add the following:

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 following shall be applicable in lien thereof.

''(2) VISAS FOR SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).

''(B) NUMERICAL LIMITATION.—The total number of visas issued under paragraph (1)(A) and paragraph (2), excluding such visas issued to aliens pursuant to section 245B or

section 245C of the Immigration and Nationality Act, may not exceed 650,000 during any fiscal year.

''(C) CONSTRUCTION.—Nothing in this paragraph may be construed to modify the requirement set out in 245B(a)(1)(I) or 245C(i)(2)(A) that prohibit an alien from receiving an adjustment of status to that of a legal permanent resident prior to the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of section 245B and 245C.

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. However, 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 purpose of this hearing is to receive testimony on the National Research Council Report, ''Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation'' and the U.S. Bureau of Reclamation Report, ''Managing for Excellence: An Action Plan for the 21st Century.''

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 am 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. 2832 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. 2781 Wastewater Treatment Works Security Act of 2006.

S. 2650 To designate the Federal courthouse to be 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.____ 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.

GSA 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 Cove, 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 Klein to be a member of the Nuclear Regulatory Commission; Dr. Gregory Jaczko to be a member of the Nuclear Regulatory Commission; and Dr. 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, Newbrunswick, 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.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that James Walsh, a detailee on my staff, be given floor privilege for the remainder of the Senate session. I also ask unanimous consent that Carol Wolchak, an attorney on my staff, be given floor privileges for the remainder of this bill.