S. 1998

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 2006

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 276

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 276, a resolution expressing the sense of the Senate regarding fighting terror and embracing efforts to achieve Israeli-Palestinian peace.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL (for himself and Mr. DASCHLE):

S. 2010. A bill to strengthen national security and United States borders, reunify families, provide willing workers, and establish earned adjustment under the immigration laws of the United States; to the Committee on the Judiciary.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Immigration Reform Act of 2004: Strengthening America's National Security, Economy, and Families'' or the ''Immigration Reform Act of 2004''.

TITLE I— FAMILY REUNIFICATION

SEC. 101. TREATMENT OF IMMEDIATE RELATIVES WITH RESPECT TO THE FAMILY IMMIGRATION CAP.

(a) EXEMPTION OF IMMEDIATE RELATIVES FROM FAMILY-SPONSORED IMMIGRANT CAP.—Section 201(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(1)(A)) is amended by striking clauses (i), (ii), and (iii) and inserting the following:

''(i) 480,000, minus;

''(ii) the number computed under paragraph (3); plus

''(iii) the number (if any) computed under paragraph (2).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 201(c) of the Immigration and Nationality Act (8 U.S.C. 1151(c)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 102. RECLASSIFICATION OF SPOUSES AND MINOR CHILDREN OF LEGAL PERMANENT RESIDENTS AS IMMEDIATE RELATIVES.

(a) IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(1) in the first sentence, by inserting ''or the spouses and children of aliens lawfully admitted for permanent residence,'' after ''United States,'';

(2) in the second sentence—

(A) by inserting ''or lawful permanent resident'' after ''citizen'' each place that term appears; and

(B) by inserting ''or lawful permanent resident's'' after ''citizen's'' each place that term appears;

(3) in the third sentence, by inserting ''or the lawful permanent resident loses lawful permanent resident status'' after ''United States citizenship''; and

(4) by adding at the end the following: ''A spouse or child, as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join the spouse or parent. The same treatment shall apply to parents of citizens of the United States being entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join their daughter or son.''.

(b) ALLOCATION OF IMMIGRANT VISAS.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

(1) in paragraph (1), by striking ''23,400'' and inserting ''38,000'';

(2) by striking paragraph (2) and inserting the following:

''(2) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 60,000 plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1).'';

(3) in paragraph (3), by striking ''23,400'' and inserting ''38,000''; and

(4) in paragraph (4), by striking ''65,000'' and inserting ''90,000''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended—

(A) in paragraph (1), by striking ''paragraphs (2) and (3),'' and inserting ''paragraph (2),'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B);

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B) respectively; and

(iii) in subparagraph (A), as so redesignated, by striking ''section 203(a)(2)(B)'' and inserting ''section 203(a)(2)''; and

(B) in subsection (e), in the flush matter following paragraph (3), by striking '', or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)''.

(3) ALLOCATION OF IMMIGRATION VISAS.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)'';

(ii) in subparagraph (A), by striking ''becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent),'' and inserting ''became available for the alien's parent,''; and

(iii) in subparagraph (B), by striking ''applicable'';

(B) in paragraph (2), by striking ''The petition'' and all that follows through the period and inserting ''The petition described in this paragraph is a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).''; and

(C) in paragraph (3), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)''.

(4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in clause (iii)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) in subclause (II)(aa)(CC)(bbb), by inserting ''or legal permanent resident'' after ''citizenship'';

(II) in clause (iv)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) by inserting ''or legal permanent resident'' after ''citizenship'';

(III) in clause (v)(I), by inserting ''or legal permanent resident''; and

(IV) in clause (vi)—

(aa) by inserting ''or legal permanent resident status'' after ''renunciation of citizenship''; and

(bb) by inserting ''or legal permanent resident'' after ''abuser's citizenship'';

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively;

(iv) in subparagraph (B), as so redesignated, by striking ''subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii)'' and inserting ''clause (iii) or (iv) of subparagraph (A)''; and

(v) in subparagraph (I), as so redesignated—

(I) by striking ''or clause (ii) or (iii) of subparagraph (B)''; and

(II) by striking ''under subparagraphs (C) and (D)'' and inserting ''under subparagraphs (B) and (C)'';

(B) by striking subsection (a)(2);

(C) in subsection (h), by striking ''or a petition filed under subsection (a)(1)(B)(ii)''; and

(D) in subsection (j), by striking ''subsection (a)(1)(D)'' and inserting ''subsection (a)(1)(C)''.

SEC. 103. EXCEPTIONS.

Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

''(V) SPOUSES AND CHILDREN OF LEGAL PERMANENT RESIDENTS OR CITIZENS OF THE UNITED STATES AND PARENTS OF UNITED STATES CITIZENS.—The provisions of this subparagraph or subparagraph (C)(i)(I) shall be waived for spouses and children of legal permanent residents or citizens of the United States as well

as parents of citizens of the United States, as such terms are defined in section 201(b)(2)(A)(i), on whose behalf or who are derivative beneficiaries of a petition filed under section 203 on or before the date of introduction of the Immigration Reform Act of 2004.''.

TITLE II—WILLING WORKER PROGRAM

SEC. 201. WILLING WORKERS.

(a) H–2B WORKERS.—Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) is amended—

(1) by inserting ''subject to section 212(t),'' before ''having a residence''; and

(2) by striking ''temporary service or labor'' and inserting ''short-term service or labor, lasting not more than 9 months''.

(b) H–2C WORKERS.—Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) is amended by striking ''profession; or'' and inserting ''profession, or (c) subject to section 212(t), who is coming temporarily to the United States to perform labor or services, other than those occupation classifications covered under the provisions of clause (i)(b), (ii)(a), or (ii)(b) of this subparagraph or subparagraph (L), (O), or (P), for a United States employer, if United States workers qualified to perform such labor or service cannot be identified; or''.

SEC. 202. RECRUITMENT OF UNITED STATES WORKERS.

Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesignating subsection (p), as added by section 1505(f) of Public Law 106–386 (114 Stat. 1526) as subsection (s); and

(2) by adding at the end the following:

''(t)(1) An employer that seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall, with respect to an alien described in such clause (ii)(b), 14 days prior to filing an application under paragraph (3), and with respect to an alien described in such clause (ii)(c), 30 days prior to filing an application under paragraph (3), take the following steps to recruit United States workers for the position for which the nonimmigrant worker is sought:

''(A) Submit a copy of the job opportunity, including a description of the wages and other terms and conditions of employment, to the United States Employment Services within the Department of Labor (ES) which shall provide the employers with an acknowledgement of receipt of the documentation provided to the ES in accordance with this subparagraph.

''(B) Authorize the ES to post the job opportunity on 'America's Job Bank' and local job banks, and with unemployment agencies and other labor referral and recruitment sources pertinent to the job in question.

''(C) Authorize the ES to notify the central office of the State Federation of Labor in the State in which the job is located.

''(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.

''(E) Advertise, with respect to an alien described in such clause (ii)(b), for at least 3 consecutive days, and for an alien described in such clause (ii)(c), for at least 10 consecutive days, the availability of the job opportunity for which the employer is seeking a worker in a publication with the highest circulation in the labor market that is likely to be patronized by a potential worker.

''(F) Based on recommendations by the local job service, advertise the availability of the job opportunity in professional, trade, or ethnic publications that are likely to be patronized by a potential worker.

''(2) An employer that seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall—

''(A) has offered the job to any United States worker who applies and is qualified for the job for which the nonimmigrant worker is sought and who is available at the time of need; and

''(B) be required to maintain, for at least 1 year after the employment relationship is terminated, documentation of recruitment efforts and responses received prior to the filing of the employer's application with the Secretary 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.''.

SEC. 203. ADMISSION OF WILLING WORKERS.

(a) APPLICATION TO THE SECRETARY OF LABOR.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as added by section 202, is amended by adding after paragraph (2) the following:

''(3) An employer that seeks to fill a position with an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), shall file with the Secretary of Labor an application attesting that—

''(A) the employer is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), wages that are at least—

''(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

''(ii) the prevailing wage level for the occupational classification in the area of employment;

whichever is greater, based on the best information available at the time of the filing of the application, and for purposes of clause (ii) the prevailing wage level shall be, if the job opportunity is covered by a collective bargaining agreement between a union and the employer, the wage rate set forth in the collective bargaining agreement, or if the job opportunity is not covered by a collective bargaining agreement between a union and the employer, and it is in an occupation that is covered by a wage determination under the Davis-Bacon Act (40 U.S.C. 276a et seq.) or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the appropriate statutory wage determination;

''(B) the employer will offer the same wages, benefits, and working conditions for such nonimmigrant as those provided to United States workers similarly employed in the same occupation and the same place of employment;

''(C) there is not a strike, lockout, or labor dispute in the occupational classification at the place of employment (including any concerted activity to which section 7 of the Labor Management Relations Act (29 U.S.C. 157) applies);

''(D) the employer will abide by all applicable laws and regulations relating to the right of workers to join or organize a union;

''(E) the employer has provided notice of the filing of the application to the bargaining representative, if any, of the employer's employees in the occupational classification at the place of employment or, if there is no such bargaining representative, has posted notice of the filing in conspicuous locations at the place of employment for all employees to see for not less than 10 business days for an alien described in clause (ii)(b) of section 101(a)(15)(H) and for not less than 25 business days for an alien described in clause (ii)(c) of such section;

''(F) the employer (including its officers, representatives, agents, or attorneys) has not required the applicant to pay any fee or charge for preparing the application and submitting it to the Secretary of Labor, the Secretary of Homeland Security, or the Secretary of State;

''(G) the requirements for the job opportunity represent the employer's actual minimum requirements for that job and the employer will not hire nonimmigrant workers with less training or experience;

''(H) the employer, within the 60 days prior to the filing of the application and the 60 days following the filing, has not laid-off, and will not lay-off, any United States worker employed by the employer in any similar position at the place of employment;

''(I) the employer, prior to the filing of the application, has complied with the recruitment requirements in accordance with paragraph (1); and

''(J) no job offer may impose on United States workers any restrictions or obligations that will not be imposed by an employer on a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).''.

(b) ACCOMPANIED BY JOB OFFER.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by subsection (a), is further amended by adding after paragraph (3) the following:

''(4) Each application filed under paragraph (3) shall be accompanied by—

''(A) a copy of the job offer describing the wages and other terms and conditions of employment;

''(B) a statement of the minimum education, training, experience, and requirements for the job opportunity in question;

''(C) copies of the documentation submitted to the United States Employment Services within the Department of Labor (ES) to recruit United States workers in accordance with paragraph (1);

''(D) copies of the advertisements to recruit United States workers placed in publications in accordance with paragraph (1); and

''(E) a copy of the acknowledgement of receipt provided to the employer by the ES in accordance with paragraph (1)(A).''.

(c) INCOMPLETE APPLICATIONS; RETENTION OF APPLICATION; FILING OF PETITION.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by subsection (b), is further amended by adding after paragraph (4) the following:

''(5) The Secretary of Labor shall review the application and requisite documents filed in accordance with paragraphs (3) and (4) for completeness and accuracy and if deficiencies are found, the Secretary of Labor shall notify the employer and provide the employer with an opportunity to address such deficiencies.

''(6) A copy of the application and requisite documents filed with the Secretary of Labor in accordance with paragraphs (3) and (4) shall be retained by the employer in a public access file at the employer's headquarters or principal place of employment of the alien for the duration of the employment relationship and for 1 year after the termination of that employment relationship.

''(7) Upon the approval of an application by the Secretary of Labor, an employer who seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall file a petition as required under section 214(c)(1) with the Bureau of Citizenship and Immigration Services within the Department of Homeland Security.

''(8) Upon finalization of the visa processing, the Secretary of Homeland Security shall issue each alien who obtains legal status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) with a counterfeit-resistant visa and a document of authorization, both of

which meet all the requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in this subsection.''.

SEC. 204. WORKER PROTECTIONS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 203, is further amended by adding after paragraph (7) the following:

''(8)(A) Nothing in this subsection shall be construed to limit the rights of an employee under a collective bargaining agreement or other employment contract.

''(B) An alien admitted or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall not be denied any right or any remedy under Federal, State, or local labor or employment law that is applicable to a United States worker employed in a similar position with the employer because of the status of the alien as a nonimmigrant worker.

''(C) It shall be unlawful for an employer who has filed a petition for a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner, discriminate against an employee (including a former employee) because the employee—

''(i) disclosed information, to the employer or to any other person, that the employee reasonably believes evidences a violation of this subsection or any rule or regulation pertaining to this subsection; or

''(ii) because the employee cooperates or seeks to cooperate in a government investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

''(D) The Secretary of Labor and the Secretary of Homeland Security shall establish a process under which a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) who files a complaint regarding a violation of this subsection, or any other rule or regulation pertaining to this subsection 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 that nonimmigrant classification.

''(E)(i) The Secretary of Labor and the Special Counsel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices within the Department of Justice (referred to in this paragraph as the 'Special Counsel') shall jointly prescribe a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in the application submitted under paragraph (3), or a petitioner's misrepresentation of a material fact in an application submitted under paragraph (3). The Secretary of Labor and the Special Counsel shall provide for coordinated enforcement that ensures that the investigation and hearing process for a complaint under this subparagraph is the same whether conducted by the Secretary of Labor or the Special Counsel.

''(ii) A complaint may be filed under this subparagraph with either the Secretary of Labor or the Special Counsel by an aggrieved person or organization (including bargaining representatives). The complaint shall be in writing under oath and penalty of perjury, and shall contain such information and be in such form as the Secretary of Labor or the Special Counsel requires. 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 on which the failure or misrepresentation became known or should have become known by the complainant. The Secretary of Labor and the Special Counsel shall jointly conduct an investigation under this clause if there is reasonable basis to believe that such a failure or misrepresentation has occurred.

''(iii) The process established under clause (i) shall provide that, not later than 30 days after a complaint is filed, a determination of whether or not a reasonable basis exists to find a violation shall be made.

''(iv) If the Secretary of Labor or the Special Counsel, after receiving a complaint under this subparagraph, determines after an investigation that a reasonable basis exists under clause (iii), the Secretary of Labor or the Special Counsel, as the case may be, may require the parties to submit the issues to conciliation pursuant to a process jointly prescribed by the Secretary of Labor and the Special Counsel. Such process shall remain confidential and may not be made public by the Secretary of Labor, the Special Counsel, their officers or employees, or either of the parties or their representatives. The conciliation period shall be 60 days. If there is a determination that there is a reasonable likelihood that the complaint may be resolved through conciliation, the conciliation process may be extended up to 2 additional periods of 30 days each.

''(v) If the complaint is not resolved through conciliation, then not later than 30 days after a determination is made, the Secretary of Labor or the Special Counsel, as the case may be, shall issue a notice to the interested parties that provides an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(vi) If, on the basis of an investigation of a complaint under this subparagraph, it is determined that a reasonable basis does not exist the Secretary of Labor or the Special Counsel, as the case may be, shall issue a notice to the interested parties and offer either party an opportunity to appeal the determination of the Secretary of Labor or the Special Counsel. The appeal will provide for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(vii) If after receipt of a complaint in accordance with this subparagraph, no determination is issued within 30 days of whether a reasonable basis exists to find a violation, the interested or aggrieved party or their representative may request a hearing on the matter in accordance with section 556 of title 5, United States Code, by filing the request directly with the Office of the Chief Administrative Hearing Officer.

''(viii) If either party disagrees with the determination by the Secretary of Labor or the Special Counsel, they may appeal the decision to the Office of the Chief Administrative Hearing Officer, and if either party disagrees with the determination by the Office of the Chief Administrative Hearing Officer, they may appeal the decision to an administrative law judge.

''(ix) If at any stage there is a determination that there was a failure to meet a requirement of paragraph (3), or a misrepresentation of a material fact in an application—

''(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and impose administrative remedies, including civil monetary penalties not to exceed $2,500 per violation; and

''(II) the Secretary of Homeland Security shall not approve petitions filed by that employer under section 214(c) for a period of at least 1 year for aliens to be employed by the employer.

''(x) The Secretary of Homeland Security may continue to accept from an employer and approve a petition that is subject to clause (ix)(II) if the employer shows to the satisfaction of the Secretary that the act or omission giving rise to such action was in good faith and that the employer had reasonable grounds for believing that the employer's act or omission was not a violation. A non-immigrant worker covered by the application shall remain entitled to equitable relief notwithstanding any such finding of good faith.

''(xi) If at any stage there is a determination that there was a willful failure to meet a requirement of paragraph (3), or a willful misrepresentation of a material fact in an application—

''(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and may impose administrative remedies, including civil monetary penalties in an amount not to exceed $7,500 per violation; and

''(II) the Secretary of Homeland Security shall not approve petitions filed with respect to that employer under section 214(c) during a period of at least 2 years for aliens to be employed by the employer.

''(xii) If at any stage there is a determination that there was a willful failure to meet a requirement of paragraph (3), or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 60 days before and ending 60 days after the date of filing of any visa petition supported by the application—

''(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and may impose administrative remedies, including civil monetary penalties in an amount not to exceed $35,000 per violation; and

''(II) the Secretary of Homeland Security shall not approve petitions filed with respect to that employer under section 214(c) during a period of at least 3 years for aliens to be employed by the employer.

''(F) The Secretary of Labor and Special Counsel shall have the authority to initiate and pursue investigations and audits of employers, whether upon complaint or otherwise, in order to ensure that employers are not violating the rights guaranteed under this subsection to nonimmigrant workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).''.

SEC. 205. NOTIFICATION OF EMPLOYEE RIGHTS.

Section 214(c), of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(11) An employer that employs an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall provide such alien with the same notification of the alien's rights and remedies under Federal, State, and local laws that the employer is required to provide to United States workers and, upon request of the United States worker, make available to United States employees a copy of the attested application submitted by the employer regarding that alien to the Secretary

of Labor and the application by the employer regarding that alien submitted to the Secretary of Homeland Security.''.

SEC. 206. PORTABILITY.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 204, is further amended by adding after paragraph (8) the following:

''(9)(A) Except as provided in subparagraph (C), any alien admitted or otherwise provided status as a nonimmigrant described in section 101(a)(15)(H)(ii)(c) may change employers only after the alien has been employed by the petitioning employer for at least 3 months from the date of admission or the date such status was otherwise acquired.

''(B) Except as provided in subparagraph (C), any alien admitted or otherwise provided status as a nonimmigrant described in section 101(a)(15)(H)(ii)(b) shall be prohibited from changing employers after the alien has been employed by the petitioning employer.

''(C) The 3-month employment requirement in subparagraph (A) may be waived (without loss of status during the period of the waiver) for a nonimmigrant described in section 101(a)(15)(H)(ii)(c) and the employment requirement in subparagraph (B) may be waived (without loss of status during the period of the waiver) for a nonimmigrant described in section 101(a)(15)(H)(ii)(b) in circumstances where—

''(i) the alien began and continued the employment in good faith but the employer violated a term or condition of sponsorship of the alien under this Act or violated any other law or regulation relating to the employment of the alien; or

''(ii) the personal circumstances of the alien changed so as to require a change of employer, including family, medical, or humanitarian reasons, a disability, or other factor rendering the alien unable to perform the job.

''(D) If a waiver under subparagraph (C) is sought, the application shall be accompanied by such evidence to warrant the approval of such waiver.

''(E) A nonimmigrant alien admitted or otherwise provided status as a nonimmigrant described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) may accept new employment with a new employer upon the filing by the new employer of a new application on behalf of such alien as provided under paragraph (3). Employment authorization shall continue until the new petition is adjudicated. If the new petition is denied, the alien's right to work as established by this subsection shall cease. The alien's right to work, if any, established by any other provision of law, shall not be affected by the denial of such new application.''.

SEC. 207. SPOUSES AND CHILDREN OF WILLING WORKERS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 206, is further amended by adding after paragraph (9) the following:

''(10) A spouse or child of a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible for derivative status by accompanying or following to join the alien.''.

SEC. 208. PETITIONS BY EMPLOYER GROUPS AND UNIONS.

Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(1) by inserting after the first sentence the following: ''In the case of an alien or aliens described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), the petition may be filed by an associated or affiliated group of employers that have multiple openings for similar employment on behalf of the individual employers or by a union or union consortium. The petition, if approved, will be valid for employment in the described positions for the member employers, the union, or union consortium, provided the employing entity has complied with all applicable recruitment requirements and paid the requisite petition fees.''; and

(2) by adding at the end the following: ''Nothing in this paragraph shall be construed to permit a recruiting entity or job shop to petition for an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).''.

SEC. 209. PROCESSING TIME FOR PETITIONS.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 205, is further amended by adding at the end the following:

''(12) The Secretary of Labor shall review the application filed under section 212(t)(3) for completeness and accuracy and issue a determination with regard to the application not later than 21 days after the date on which the application was filed.

''(13) The Secretary of Homeland Security shall establish a process for reviewing and completing adjudications upon petitions filed under this subsection with respect to nonimmigrant workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) and derivative applications associated with these petitions, not later than 60 days after the completed petition has been filed.''.

SEC. 210. TERMS OF ADMISSION.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

''(8) In the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(b), the initial period of authorized admission shall be for not more than 9 months from the date of application for admission in such status in any 1-year period. No nonimmigrant described in such section may be admitted for a total period that exceeds 36 months in a 4-year period.

''(9) In the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(c), the initial period of authorized admission shall be for not more than 2 years. The employer may petition for extensions of such status for an additional period of not more than 2 years. No nonimmigrant described in such section shall be admitted for a total period that exceeds 4 years.

''(10)(A) The limitations contained in paragraphs (8) and (9) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(c) on whose behalf a petition has been filed under section 204(b) to accord the alien immigrant status under section 203(b), or an application for adjustment of status has been filed under section 245 to accord the alien status under section 203(b), if 365 days or more have elapsed since—

''(i) the filing of a labor certification application on behalf of the alien (if such certification is required for the alien to obtain status under section 203(b)); or

''(ii) the filing of the petition under section 204(a).

''(B) The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under subparagraph (A) in 1-year increments until such time as a final decision is made—

''(i) to deny the application described in subparagraph (A)(i), or, in a case in which such application is granted, to deny a petition described in subparagraph (A)(ii) filed on behalf of the alien pursuant to such grant;

''(ii) to deny the petition described in subparagraph (A)(ii); or

''(iii) to grant or deny the alien's application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.''.

SEC. 211. NUMBER OF VISAS ISSUED.

Section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)) is amended to read as follows:

''(B)(i) under section 101(a)(15)(H)(ii)(c) may not exceed 250,000 in each of the 5 fiscal years following the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published; and

''(ii) under section 101(a)(15)(H)(ii)(b) may not exceed 100,000 in each of the 5 fiscal years following the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published, and may not exceed 66,000 in each fiscal year thereafter.''.

SEC. 212. IMMIGRATION STUDY COMMISSION.

(a) ESTABLISHMENT.—On the date that is 3 years after the date of enactment of this Act, there shall be established a commission, to be known as the Immigration Study Commission (referred to in this section as the ''Commission'') to review the impact of this Act on the national security of the United States, the national economy, and families, and to make recommendations to Congress.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, of which—

(A) 3 members shall be appointed by the majority leader of the Senate;

(B) 3 members shall be appointed by the minority leader of the Senate;

(C) 3 members shall be appointed by the Speaker of the House of Representatives; and

(D) 3 members shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—The Commission members shall represent the public and private sectors and have expertise in areas that would best inform the work of the Commission, including national security experts, economists, sociologists, worker representatives, business representatives, and immigration lawyers.

(3) CHAIRPERSON.—The chairperson of the Commission shall be a Commission member agreed upon by the majority and minority leaders of the Senate, and the Speaker and the minority leader of the House of Representatives.

(4) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(5) TERMS.—Each member shall be appointed for the life of the Commission. Any vacancy shall be filled by whomever initially appointed the member of that seat.

(c) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Bureau of Citizenship and Immigration Services.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) REPORT.—Not later than 1 year after all of the members are appointed to the Commission, the Commission shall submit to Congress a preliminary report that summarizes the directions of the Commission and initial recommendations. Not later than 2 years after the Commission members are appointed, the Commission shall submit to Congress a report that summarizes the findings of the Commission and make such recommendations as are consistent with this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Citizenship and Immigration Services such sums as may be necessary to carry out this section.

SEC. 213. CHANGE OF STATUS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 207, is further amended by adding after paragraph (10) the following:

''(11) An alien admitted as a nonimmigrant or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible to obtain a change of status to another immigrant or nonimmigrant classification that the alien may be eligible for.''.

SEC. 214. ADJUSTMENT OF STATUS TO LAWFUL PERMANENT RESIDENT.

(a) EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 213, is further amended by adding after paragraph (11) the following:

''(12)(A) Nonimmigrant aliens admitted or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible for an employment-based immigrant visa pursuant to section 203(b)(3) and adjustment of status pursuant to section 245.

''(B) Pursuant to subparagraph (A), for purposes of adjustment of status under section 245(a) or issuance of an immigrant visa under section 203(b)(3), employment-based immigrant visas shall be made available, without regard to any numerical limitation imposed by section 201 or 202, to an alien having nonimmigrant status described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) upon the filing of a petition for such a visa by—

''(i) the employer or any collective bargaining agent of the alien; or

''(ii) the alien, provided the alien has been employed under such nonimmigrant status for at least 3 years.

''(C) The spouse or child of an alien granted status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible as a derivative beneficiary for an immigrant visa and adjustment of status.''.

(b) DUAL INTENT.—Section 214(h) of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended by inserting ''(H)(ii)(b), (H)(ii)(c),'' after ''(H)(i),''.

SEC. 215. GROUNDS OF INADMISSIBILITY.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 214(a), is further amended by adding after paragraph (12) the following:

''(13) In determining the admissibility of an alien under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), violations of grounds of inadmissibility described in paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(G), (7), (9), and (10)(B) of section 212(a) committed prior to the application under such section, or the approval of a change of status to a classification under such section shall not apply if the violation was committed before the date of introduction of the Immigration Reform Act of 2004.''.

SEC. 216. PETITION FEES.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 215, is further amended by adding after paragraph (13) the following:

''(14)(A) An employer filing a petition for an alien described in section 101(a)(15)(H)(ii)(c) shall be required to pay a filing fee for each alien, based on the cost of carrying out the processing duties under this subsection, and a secondary fee of—

''(i) $250, in the case of an employer employing 25 employees or less;

''(ii) $500, in the case of an employer employing between 26 and 150 employees;

''(iii) $750, in the case of an employer employing between 151 and 500 employees; or

''(iv) $1,000, in the case of an employer employing more than 500 employees.

''(B) An employer filing a petition for an alien described in section 101(a)(15)(H)(ii)(b) shall be required to pay a filing fee for each alien, based on the costs of carrying out the processing duties under this subsection, and a secondary fee of—

''(i) $125, in the case of an employer employing 25 employees or less;

''(ii) $250, in the case of an employer employing between 26 and 150 employees;

''(iii) $375, in the case of an employer employing between 151 and 500 employees; or

''(iv) $500, in the case of an employer employing more than 500 employees.

''(C) The fees collected under this paragraph shall be deposited into accounts within the Department of Homeland Security, the Department of Labor, and the Department of State, and allocated such that—

''(i) 15 percent of the amounts received shall be made available to the Department of Homeland Security until expended to carry out the requirements related to processing petitions filed by employers for aliens described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H);

''(ii) 20 percent of the amounts received shall be made available to the Department of Labor until expended to—

''(I) carry out the requirements related to processing attestations filed by employers for aliens described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H); and

''(II) increase the funds available to the United States Employment Services to assist State employment service agencies in responding to employers and employees contacting such agencies as a result of paragraph (1);

''(iii) 15 percent of the amounts received shall be made available to the Department of State until expended to carry out the requirements related to processing applications for visas by aliens under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H);

''(iv) 20 percent of the amounts received shall be made available for the performance of functions under section 212(t)(8)(F) as the Secretary of Labor and the Special Counsel of the Office of the Special Counsel for Immigration-Related Unfair Employment Practices within the Department of Justice may agree; and

''(v) 30 percent of the amounts received shall be made available to the Department of Homeland Security for implementation of border security measures.''.

SEC. 217. TERMINATON OF H-2C TEMPORARY WORKER PROGRAM.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 216, is further amended by adding after paragraph (14) the following:

''(15) The temporary worker program for aliens described in section 101(a)(15)(H)(ii)(c) shall terminate at the end of the fiscal year that is 5 years after the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published. Congress shall review the temporary worker program before the expiration of the program based on the findings and recommendations submitted by the Immigration Study Commission under section 212(d) of the Immigration Reform Act of 2004.''.

SEC. 218. DEFINITIONS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 217, is further amended by adding after paragraph (15) the following:

''(16) In this subsection:

''(A) The term 'employer' means any person or entity that employs workers in labor or services that are not agricultural, and shall not include recruiting entities or job shops.

''(B) The term 'job opportunity' means a job opening for temporary full-time or part-time employment at a place in the United States to which United States workers can be referred.

''(C)(i) 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, termination of the position or company, 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 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.

''(ii) Nothing in this subparagraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(D) 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 clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).''.

SEC. 219. COLLECTIVE BARGAINING AGREEMENTS.

Notwithstanding any other provision of law, the fact that an individual holds a visa as a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) shall not render that individual ineligible to qualify as an employee under the National Labor Relations Act (29 U.S.C. 151 et seq.) or to be protected under section 7 of that Act (29 U.S.C. 157).

SEC. 220. REPORT ON WAGE DETERMINATION.

Not later than 2 years after the date of enactment of this Act, the Bureau of Labor Statistics shall prepare and transmit to the Committees on Health, Education, Labor and Pensions and the Judiciary in the Senate and the Committees on Education and the Workforce and the Judiciary in the House of Representatives, a report that addresses—

(1) whether the employment of workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) in the

United States workforce has impacted United States worker wages;

(2) whether any changes should be made for a future wage system, based on, inter alia, an examination of the Occupational Employment System survey, its calculation of wage data based on skill and experience levels, difference among types of employers (specifically for-profit and nonprofit, and government and nongovernment);

(3) whether use of private, independent wage surveys would provide accurate and reliable criteria to determine wage rates; and

(4) any other recommendations that are warranted.

SEC. 221. INELIGIBILITY FOR CERTAIN NONIMMIGRANT STATUS.

(a) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien who has status pursuant to section 245B of the Immigration and Nationality Act, as added by title III, or clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), shall not be eligible in the future for such nonimmigrant status if the alien violates any term or condition of such status.

(b) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after the date of enactment of this Act without being admitted or paroled shall be ineligible for nonimmigrant status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)).

SEC. 222. INVESTIGATIONS BY DEPARTMENT OF HOMELAND SECURITY DURING LABOR DISPUTES.

(a) IN GENERAL.—When information is received by the Department of Homeland Security concerning the employment of undocumented or unauthorized aliens, consideration should be given to whether the information is being provided to interfere with the rights of employees to—

(1) form, join, or assist labor organizations or to exercise their rights not to do so;

(2) be paid minimum wages and overtime;

(3) have safe work places;

(4) receive compensation for work related injuries;

(5) be free from discrimination based on race, gender, age, national origin, religion, or handicap; or

(6) retaliate against employees for seeking to vindicate these rights.

(b) DETERMINATION OF LABOR DISPUTE.—Whenever information received from any source creates a suspicion that an immigration enforcement action might involve the Department of Homeland Security in a labor dispute, a reasonable attempt should be made by Department of Homeland Security enforcement officers to determine whether a labor dispute is in progress. The information officer at the regional office of the National Labor Relations Board can supply status information on unfair labor practice charges or union election or decertification petitions that are pending involving most private sector, non-agricultural employers. Wage and hour information can be obtained from the Wage and Hour Division of the Department of Labor or the State labor department.

(c) RELEVANT QUESTIONS FOR INFORMANT.—In order to protect the Department of Homeland Security from unknowingly becoming involved in a labor dispute, persons who provide information to the Department of Homeland Security about the employer or employees involved in the dispute should be asked—

(1) their names;

(2) whether there is a labor dispute in progress at the worksite;

(3) whether the person is or was employed at the worksite in question (or by a union representing workers at the worksite);

(4) if applicable, whether the person is or was employed in a supervisory or managerial capacity or is related to anyone who is;

(5) how the person came to know that the subjects lacked legal authorization to work, as well as the source and reliability of the information concerning the subject's status;

(6) whether the person had or is having a dispute with the employer or the subjects of the information; and

(7) if the subjects of the information have raised complaints or grievances about hours, working conditions, discriminatory practices, or union representation or actions, or whether the subjects have filed workers' compensation claims.

(d) BICE REVIEW.—There is no prohibition for enforcing the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), even when there may be a labor dispute in progress, however, where it appears that information may have been provided in order to interfere with or to retaliate against employees for exercising their rights, no action should be taken on this information without review and approval by the Bureau of Immigration and Customs Enforcement.

(e) ENFORCEMENT ACTION.—When enforcement action is taken by the Department of Homeland Security and the Department determines that there is a labor dispute in progress, or that information was provided to the Department of Homeland Security to retaliate against employees for exercising their employment rights, the lead immigration officer in charge of the Department of Homeland Security enforcement team at the worksite must ensure, to the extent possible, that any aliens who are arrested or detained and are necessary for the prosecution of any violations are not removed from the country without notifying the appropriate law enforcement agency that has jurisdiction over the violations.

(f) INTERVIEWS.—Any arrangements for aliens to be held or interviewed by investigators or attorneys for the Department of Labor, the State labor department, the National Labor Relations Board, or any other agencies or entities that enforce labor or employment laws will be determined on a case-by-case basis.

SEC. 223. PROTECTION OF WITNESSES.

Chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 280 the following:

''STAY OF REMOVAL

''SEC. 280A. (a) An alien against whom removal proceedings have been initiated pursuant to chapter 4, who has filed a workplace claim or who is a material witness in any pending or anticipated proceeding involving a workplace claim, shall be entitled to a stay of removal and to an employment authorized endorsement unless the Department of Labor established by a preponderance of the evidence in proceedings before the immigration judge presiding over that alien's removal hearing—

''(1) that—

''(A) the Department of Homeland Security initiated the alien's removal proceeding for wholly independent reasons and not in any respect based on, or as a result of, any information provided to or obtained by the Department of Homeland Security from the alien's employer, from any outside source, including any anonymous source, or as a result of the filing or prosecution of the workplace claim; and

''(B) the workplace claim was filed with a bad faith intent to delay or avoid the alien's removal; or

''(2) that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

''(b) Any stay of removal or work authorization issued pursuant to subsection (a) shall remain valid and in effect at least during the pendency of the proceedings concerning such workplace claim. The Secretary of Homeland Security shall extend such relief for a period of not longer than 3 additional years upon determining that—

''(1) such relief would enable the alien asserting the workplace claim to be made whole;

''(2) the deterrent goals of any statute underlying the workplace claim would thereby be served; or

''(3) such extension would otherwise further the interests of justice.

''(c) In this section—

''(1) the term 'workplace claim' shall include any claim, charge, complaint, or grievance filed with or submitted to the employer, a Federal or State agency or court, or an arbitrator, to challenge an employer's alleged civil or criminal violation of any legal or administrative rule or requirement affecting the terms or conditions of its workers' employment or the hiring or firing of its workers; and

''(2) the term 'material witness' means an individual who presents an affidavit from an attorney prosecuting or defending the workplace claim or from the presiding officer overseeing the workplace claim attesting that, to the best of the affiant's knowledge and belief, reasonable cause exists to believe that the testimony of the individual will be crucial to the outcome of the workplace claim.

''CONFIDENTIALITY OF IMMIGRATION INFORMATION OBTAINED DURING ADMINISTRATIVE PROCEEDINGS

''SEC. 280B. (a) No officer or employee, including any former officer or employee, of any Federal or State administrative agency with jurisdiction over any employer's workplace shall disclose to the Department of Homeland Security, or cause to be published in a manner that discloses to the Department of Homeland Security, any information concerning the immigration status of any worker obtained by that officer or employee in connection with the official duties of that officer or employee, and the Department of Homeland Security shall not, in any enforcement action or removal proceeding, use or rely upon, in whole or in part, any information so obtained.

''(b) Any person who knowingly uses, publishes, or permits information to be used in violation of subsection (a) shall be fined not more than $10,000.''.

SEC. 224. DOCUMENT FRAUD.

Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended by inserting before ''In applying this subsection'' the following: ''The civil penalties set forth in subparagraphs (A) and (B) shall be tripled in the case of any commercial enterprise that commits any violation of subsection (a) principally for commercial advantage or financial gain.''.

TITLE III—ACCESS TO EARNED ADJUSTMENT

SEC. 301. ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''ACCESS TO EARNED ADJUSTMENT

''SEC. 245B. Access to earned adjustment.

''(a) ADJUSTMENT OF STATUS.—

''(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

''(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

''(B) CONTINUOUS PHYSICAL PRESENCE.—

''(i) IN GENERAL.—The alien shall establish that the alien—

''(I) was physically present in the United States for at least 5 years preceding the date of introduction of the Immigration Reform Act of 2004;

''(II) was not legally present on the date of introduction of the Immigration Reform Act of 2004; and

''(III) has not departed from the United States except for brief, casual, and innocent departures.

''(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall not be considered to be legally present in the United States.

''(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

''(D) EMPLOYMENT IN UNITED STATES.—

''(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

''(I) at least 3 of the 5 years immediately preceding the date on which the Immigration Reform Act of 2004 was introduced; and

''(II) at least 1 year following the date of enactment of such Act.

''(ii) EXCEPTIONS.—The employment requirements in clause (i) shall not apply to an individual who is under 20 years of age on the date of introduction of the Immigration Reform Act of 2004, and the employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

''(iii) PORTABILITY.—An alien shall not be required to complete the employment requirements in clause (i) with the same employer.

''(iv) EVIDENCE OF EMPLOYMENT.—

''(I) CONCLUSIVE DOCUMENTS.—For purposes of satisfying the requirements in clause (i), the alien shall submit at least 2 of the following documents for each period of employment, which shall be considered conclusive evidence of such employment:

''(aa) Records maintained by the Social Security Administration.

''(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

''(cc) Records maintained by the Internal Revenue Service.

''(dd) Records maintained by a union or day labor center.

''(ee) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

''(II) OTHER DOCUMENTS.—Aliens unable to submit documents described in subclause (I) shall submit at least 3 other types of reliable documents, including sworn declarations, for each period of employment to satisfy the requirement in clause (i).

''(III) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in clause (i) be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i). An alien may satisfy such burden of proof by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

''(E) PAYMENT OF INCOME TAXES.—Not later than the date on which 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 subparagraph (D)(i). 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.

''(F) BASIC CITIZENSHIP SKILLS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien either—

''(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or

''(II) is satisfactorily pursuing a course of study, recognized by the Secretary of Homeland Security, to achieve such understanding of English and the history and government of the United States.

''(ii) EXCEPTIONS.—

''(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

''(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

''(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

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

''(2) SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—

''(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

''(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigration Reform Act of 2004, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

''(II) an alien who, within 5 years preceding the date of enactment of the Immigration Reform Act of 2004, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

''(aa) the termination of the qualifying relationship was connected to domestic violence; or

''(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

''(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

''(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

''(b) GROUNDS OF INADMISSIBILITY.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following shall apply:

''(A) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Secretary of Homeland Security under subparagraph (C)(i) of this subsection:

''(i) Paragraph (1) (relating to health).

''(ii) Paragraph (2) (relating to criminals).

''(iii) Paragraph (3) (relating to security and related grounds).

''(iv) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

''(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

''(C) WAIVER OF OTHER GROUNDS.—

''(i) IN GENERAL.—Except as provided in subparagraph (A), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

''(ii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the

authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

''(D) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

''(E) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

''(F) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

''(c) TREATMENT OF APPLICANTS.—

''(1) IN GENERAL.—An alien who files an application under subsection (a)(1)(A) for adjustment of status, including a spouse or child who files for adjustment of status under subsection (b)—

''(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

''(B) shall be granted permission to travel abroad pursuant to regulation pending final adjudication of the alien's application for adjustment of status;

''(C) shall not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien commits an act which renders the alien ineligible for such adjustment of status; and

''(D) shall not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as employment authorization under subparagraph (A) is denied.

''(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that meets all current requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in subparagraphs (A) through (D) of paragraph (1).

''(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

''(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

''(d) APPREHENSION BEFORE APPLICATION PERIOD.— The Secretary of Homeland Security shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a) and who can establish prima facie eligibility to have the alien's status adjusted under that subsection (but for the fact that the alien may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 180 days of the application period to complete the filing of an application for adjustment, the alien may not be removed from the United States unless the alien is removed on the basis that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor 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 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 in writing by such entity.

''(3) 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.

''(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

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

''(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, 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) 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, or 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.

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

''(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 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 such Act (8 U.S.C. 1601 et seq.).

''(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

''(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

''(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detainment of the alien pending final adjudication of the application, unless the removal or detainment of the alien is based on criminal or national security grounds.

''(i) APPLICATION OF OTHER IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

''(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

''(2) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(3) JUDICIAL REVIEW.—

''(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative appellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the 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.

''(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

''(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

''(l) EMPLOYER PROTECTIONS.—

''(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

''(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

''(m) AUTHORIZATION OF FUNDS; FINES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

''(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the Department of Homeland Security for other applications for adjustment of status.

''(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 $1,000, 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) 60 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

''(B) 40 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 as a result of the amendments made by title I of the Immigration Reform Act of 2004.

''(n) TRANSITIONAL WORKERS.—

''(1) ELIGIBILITY FOR TRANSITIONAL WORKER STATUS.—Any alien who is physically present in the United States on the date of introduction of the Immigration Reform Act of 2004 who seeks to adjust status under this section but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1) shall be eligible—

''(A) to apply for transitional worker status, which shall have a duration period of not more than 3 years from the date of issuance of the transitional worker card, without having to depart the United States; and

''(B) be granted employment authorization and permission to travel abroad for a period of not more than 3 years from the date of issuance of the transitional worker card.

''(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall issue each alien described in paragraph (1) with a counterfeit-resistant document of authorization that meets all requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in paragraph (1)(B).

''(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien described in paragraph (1) is granted employment authorization or permission to travel abroad, such alien shall be required to undergo a name check against existing databases for information relating to criminal, security, and other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed as expeditiously as possible.

''(4) ELIGIBILITY FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status to that of a lawful permanent resident under this subsection if the alien—

''(A) has applied for transitional worker status under paragraph (1);

''(B) is lawfully employed in the United States in the aggregate for—

''(i) more than 2 but less than 3 of the 5 years immediately preceding the date on which the Immigration Reform Act of 2004 was introduced; and

''(ii) at least 2 years following the date of enactment of that Act; and

''(C) was present in the United States on and after the date of introduction of that Act (without regard to any brief, casual, and innocent departures from the United States).

''(5) EXCEPTIONS.—The employment requirements in paragraph (4)(B) shall not apply to an individual who is under 20 years of age on the date on which the Immigration Reform Act of 2004 was introduced, and the employment requirement in paragraph (4)(B)(ii) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

''(6) PORTABILITY.—An alien shall not be required to complete the employment requirements in paragraph (4) with the same employer.

''(7) ADJUSTMENT OF STATUS.—An alien who meets the requirements of paragraph (4) and applies for adjustment of status to that of a lawful permanent resident under this subsection shall be required to comply with the requirements of subparagraphs (C), (E), (F), (G), and (H) of subsection (a)(1). In adjudicating such an application, the Secretary of Homeland Security shall determine the admissibility of the alien in accordance with subsection (b).

''(8) SPOUSES AND CHILDREN.—

''(A) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subsection (b), adjust the status to that of a lawful permanent resident or provide an immigrant visa to—

''(i) the spouse or child of an alien who adjusts status or is eligible to adjust status to that of a lawful permanent resident under this subsection; or

''(ii) an alien who was the spouse or child of an alien who adjusts status to that of a lawful permanent resident under this subsection, if—

''(I) the termination of the qualifying relationship was connected to domestic violence; or

''(II) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status to that of a lawful permanent resident under this subsection.

''(B) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall issue each alien described in subparagraph (A) with a counterfeit-resistant document of authorization that meets all requirements established by the Secretary of Homeland Security for travel documents and reflects the status set forth in that subparagraph.

''(C) APPLICATION OF OTHER LAW.—In acting on applications filed under this subsection with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(9) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted legal permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

''(10) TERMINATION OF AUTHORITY.—No action may be taken under this subsection in the case of an alien who submits an application for transitional worker status under paragraph (1) more than 3 years after the date on which final regulations implementing this section take effect.

''(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigration Act of 2004, the Secretary of Homeland Security shall issue regulations to implement this section.''.

(b) TABLE OF CONTENTS.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''245B. Access to Earned Adjustment.''.

SEC. 302. CORRECTION OF SOCIAL SECURITY RECORDS.

Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

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

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

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

''(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.

By Mr. HAGEL:

S. 2011. A bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes; to the Committee on the Judiciary.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.

(a) IN GENERAL.—The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, the eastern district of Missouri, and the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650, 104 Stat. 5089) as amended by Public Law 105–53, as of the date of enactment of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended by—

(1) striking the item relating to California and insert the following:

''California:

Northern	14
Eastern	7
Central	27
Southern	13'';

(2) striking the item relating to Hawaii and inserting the following:

''Hawaii	4'';

(3) striking the item relating to Kansas and inserting the following:

''Kansas	6'';

(4) striking the item relating to the eastern district of Missouri and inserting the following:

''Missouri:

Eastern	7
Western	5
Eastern and Western	2'';

and

(5) striking the item relating to Nebraska and inserting the following:

''Nebraska	4''.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL):

S. 2013. A bill to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce with my friend and colleague from Vermont, Senator LEAHY, the Satellite Home Viewer Extension Act of 2004. We are pleased to be joined in this effort by Senators DEWINE and KOHL.

S. 2013 provides for a five-year extension of the statutory license for satellite carriers to make secondary transmissions of ''distant'' network and superstation television programs, which is set forth in section 119 of the Copyright Act.

The current section 119 license permits satellite carriers to provide subscribers that reside in unserved households with network programming from distant television markets. This section is set to expire at the end of 2004. The extension of this statutory license for an additional five years would continue to serve the many interests that the section 119 license seeks to advance. Most importantly, it assures that television viewers incapable of receiving local network stations off the air retain access to network programming via satellite. This is particularly important for viewers who live in rural areas and may be unserved by either local stations or cable carriers. Indeed, many of my constituents in Utah depend on satellite systems for their television reception. This statutory license also enables the satellite home delivery industry to effectively compete with cable companies, which have long enjoyed a statutory license of their own.

The limited extension also recognizes, however, that satellite carriers are still in the process of making local signals available to their subscribers, an important development for viewers and local broadcasters, as well as for the satellite carriers themselves. The Satellite Home Viewer Improvement Act of 1999, which I was proud to help draft, authorized for the first time the retransmission of local signals to satellite subscribers residing in those local markets. The roll-out of ''local-into-local'' service by satellite carriers continues at a substantial rate, giving subscribers more choices than ever and further strengthening the competition between cable and satellite carriers. In light of these continuing changes, an additional extension of the Section 119 license is warranted pending further developments in this area.

I recognize that there are likely to be other issues relating to the section 119 license that warrant consideration in connection with this reauthorization. I look forward to working with my colleagues and hearing from the interested parties on those matters in the coming months.

Mr. LEAHY. Mr. President, today I am pleased to join Senator HATCH, as well as Senators KOHL and DEWINE, in sponsoring the Satellite Home Viewer Extension Act. The Satellite Home Viewer Improvement Act, which we passed in 1999, established a statutory license for satellite carriers to make secondary transmission of ''distant'' network and superstation television programs. That license will expire this year, however, so today's bill will extend that license, found in section 119 of the Copyright Act, for 5 years in order to ensure that the laudable goals of the initial bill are fully realized.

The Satellite Home Viewer Improvement Act was the result of much work in the Senate Judiciary Committee, and it enjoyed strong bipartisan support in both Houses of Congress. The license created in section 119 serves a very worthwhile purpose: it permits households that cannot receive local network programming over-the-air to receive those shows by satellite. For the many viewers who are not served by local networks or cable companies—which is the case for a great many people in the rural areas of my home State of Vermont—this is absolutely critical. Of special importance is the fact that the Satellite Home Viewer Improvement Act permits the satellite transmission of ''local-into-local'' programming, so that satellite companies can retransmit local broadcast signals to subscribers who actually live in the local market, but cannot receive the broadcast signal. Providing the news and local interest programming that is so vital to the creation and maintenance of a healthy and involved community has been the most gratifying result of the passage of that act. Furthermore, this license enhances competition by placing providers of satellite television programming on an equal footing with cable operators, which enjoy the benefits of their own statutory licenses.

Such important progress does take time, however, and the satellite carriers have not yet made these local signals available to all their subscribers. Although the provision of ''local-into-local'' programming is proceeding well, and although competition between cable and satellite companies has been strengthened, there is still more to be done before the goal of the Satellite Home Viewer Improvement Act is fully realized. If we fail to reauthorize the section 119 license, satellite programming may be unavailable as a real choice for many households, and many rural viewers will have little or no programming at all.

I look forward to working again with my colleagues on this important issue and to a speedy reauthorization of this important license.

By Ms. CANTWELL (for herself, Mrs. CLINTON, Mr. JEFFORDS, and Mr. FEINGOLD):

S. 2014. A bill to amend the Federal Power Act to establish reliability standards; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 2015. A bill to prohibit energy market manipulation; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to introduce 2 pieces of electricity legislation—simple, commonsense bills that enjoy the bipartisan support of a majority of United States Senators.

First, I am pleased to introduce with my colleagues Senators CLINTON, JEFFORDS and FEINGOLD the Electric Reliability Act of 2004. This legislation would give the Federal Energy Regulatory Commission (FERC) authority to devise a system of mandatory and enforceable standards for the reliable operation of our nation's electricity grid.

My distinguished friends from Wisconsin and Vermont, Senators FEINGOLD and JEFFORDS, and I are also

today introducing a second bill: the Electricity Needs Rules and Oversight Now (ENRON) Act, which would put in place a blanket ban on manipulative practices in our nation's electricity markets.

Enactment of these bills is long overdue. And in both cases, their provisions have passed the United States Senate within the past eight months. They represent crucial steps forward in the effort to modernize our nation's electricity grid and reform the rules by which it is operated.

Quite simply, these provisions are too important to be held captive to the majority's effort to pass H.R. 6— the energy bill conference report. Resembling a patchwork quilt of special interest hand-outs—rather than a policy that would help this nation achieve energy independence—H.R. 6 capsized under its own pork-laden weight on this very floor, a mere two months ago.

Rather than holding good energy policy hostage for the bad—as those who seek to resurrect that 1,700-page legislative monstrosity have said they intend—I believe this body can and must make necessary progress in upgrading our electricity grid and protecting our nation's consumers. That's what the two bills I'm introducing today are intended to do.

As surely my colleagues recall, much of the Northeast and Midwest last August suffered a massive power outage, affecting 50 million consumers from New York to Michigan. Clearly, the biggest blackout in our nation's history has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2004. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those who break the rules and jeopardize the reliable energy service that is the foundation of our nation's economy.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another five years. In 1997, both a Task Force established by the Clinton Administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council (NERC) determined that reliability rules for our nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, Oregon, caused a sweeping outage that knocked out power for up to 16 hours in ten states. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I've introduced today passed this body in June 2000, when this chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2004 as part of comprehensive energy legislation—most recently, this past summer.

Likewise, the Senate has previously passed the provisions contained in the ENRON Act, which Senator FEINGOLD and I are introducing today. Offered under the agreement that last July cleared the way for Senate Leadership to replace the then-pending Republican energy bill with the 107th Congress' Daschle-Bingaman legislation, the ENRON Act was adopted as an amendment to the Senate's Fiscal Year 2004 Agriculture Appropriations bill, on a strong, bipartisan vote of 57–40.

The ENRON Act is simple in concept. In the face of overwhelming evidence that Enron and other unscrupulous energy companies brazenly manipulated western energy markets during the crisis of 2000–2001, it would amend the Federal Power Act to put in place a blanket ban on such activities.

It has been estimated that the western energy crisis cost the region's consumers and businesses $35 billion in domestic economic product—in other words, a 1.5 percent decline in productivity and a total loss of 589,000 jobs. After experiencing a devastating blow that exacerbated the already-crippling national recession, consumers in my state—who continue to pay the price for the unethical gamesmanship of these companies—know that our economy simply cannot abide another Enron.

Thus, the ENRON Act is based on language included in the Securities Exchange Act—in existence since 1934. This bill would make it illegal for any company to ''use or employ . . . any manipulative or deceptive device or contrivance'' to circumvent FERC rules and regulations on market manipulation. Further, it would specify that electricity rates resulting from manipulative practices are simply not lawful. In other words, when companies are known to have gouged consumers—in some cases, even admitting as much—those same consumers should not be stuck with the inflated energy bills that result.

As Congress and various Federal agencies have over the past few years sought to piece together the events that led to the western energy crisis—the most devastating energy market meltdown in our Nation's history—a number of agencies and officials have weighed in on the issue of market manipulation. In addition to simple common sense, their statements underscore the need for the ENRON Act. For example: FERC in March 2003 issued its Final Report on Price Manipulation in Western Markets. The voluminous FERC report found that: ''Enron's corporate culture fostered a disregard for the American energy customer; the success of the company's trading strategies, while temporary, demonstrates the need for explicit prohibitions on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement.'' The General Accounting Office (GAO) in August 2003 issued a report entitled Additional Actions Would Help Ensure that FERC's Oversight and Enforcement Capability is Comprehensive and Systematic. Among GAO's observations: ''The heads of [FERC's] market monitoring units told us they recognize the difficulty of defining just and reasonable prices. They also said that they believe FERC has made some progress in doing so. However, they generally believed that FERC had not yet gone far enough.'' GAO further concluded that: ''we recommend that the Chairman of FERC more clearly define [the Commissions] role in overseeing the Nation's energy markets by . . . explicitly [describing FERC's] activities relative to carrying out the agency's statutory requirements to ensure just and reasonable prices and to preventing market manipulation.'' Republican FERC Commissioner Joe Kelliher wrote the following in a November 5 letter to me, just prior to his confirmation: ''Markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets. You have correctly noted there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish an express prohibition. This is a critical point. The Federal Energy Regulatory Commission only has the tools that Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.'' In the same letter, Kelliher goes on to note that, ''This is not to say that the Commission cannot take steps to prevent market manipulation under its existing legal authority . . . Since there would likely be legal challenges to any such effort to proscribe manipulative practices, it would be helpful for Congress to give the Commissioner clear

authority to prohibit market manipulation . . . I support the goals of your amendment'' [to the Agriculture Appropriations bill, which contains the same provisions as the ENRON Act] ''and believe it would go far towards effectively prohibiting manipulation of electricity markets.''

Recent events have clearly demonstrated the need for both the Electric Reliability Act of 2004, as well as the ENRON Act. On the other hand, the case is far less compelling for many of the provisions found in the H.R. 6 conference report. It's not just unpersuasive to argue that a 21st Century energy policy must include: liability protections for manufacturers of the groundwater pollutant MTBE; the weakening of landmark environmental laws such as the Clean Air, Clean Water and Safe Drinking Water Acts; and billions of dollars worth of subsidies, most infamously, taxpayer-backed bonds for construction of an energy efficient mall including a Hooters restaurant, it's absurd.

When the Senate last July agreed to send a comprehensive energy bill to conference with the House, few anticipated that we would get back a grab-bag of corporate give-aways so bloated that editorial pages from every corner of this Nation, from Yakima to Pensacola; Texarkana to Honolulu, would call on this body to put H.R. 6 out of its misery. Nor did many of us believe that common-sense legislation such as the ENRON Act—with broad, bipartisan support in the Senate—would be so quickly jettisoned by the conference report's authors.

Make no mistake: many of us in this chamber emphatically believe that we need an energy policy that will liberate this country from its dangerous dependence on foreign sources of oil and position our businesses to compete in the emerging global market for clean energy technologies. But to paraphrase my distinguished colleague from Vermont, Senator JEFFORDS, who has been a great leader on these issues, this Nation needs an energy bill, but certainly not this energy bill.

So today, we are introducing the Electric Reliability Act of 2004 and the ENRON Act, because it's time for this body to put the public interest ahead of the special interests poised to profit so handsomely from the passage of the energy bill conference report. We should take up and pass these individual pieces of legislation, which would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of latter-day Enrons.

In last night's State of the Union speech, President Bush observed that ''consumers and businesses need reliable supplies of energy to make our economy run.'' I could not agree more. He also urged Congress to ''pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy.'' Nowhere in his address did President Bush mention tax breaks for Hooters; I did not hear him invoke rollback of environmental laws on behalf of polluters; nor did he cite the need to put in place protections for corporate looters such as Enron—all those provisions that have become the hallmark of the energy bill conference report.

So I ask my colleagues to recognize that we can make measurable progress this year on the objectives the President has outlined. But that will happen not by holding good energy policy hostage for bad energy policy, as the authors of H.R. 6 would have it. Rather, it will happen when we agree to set aside the H.R. 6 conference report and pass common-sense, consensus-based energy policy. And both the Electric Reliability and ENRON Acts fit this description.

I ask my colleagues to support these bills.

Mrs. CLINTON. Mr. President, I am pleased to join Senators CANTWELL, JEFFORDS and FEINGOLD in introducing legislation that would create mandatory, enforceable reliability standards for our electricity system.

Last week was the five month anniversary of the worst blackout in the history of New York, and, indeed, the history of America. Congress has yet to pass electricity reliability legislation that would help ensure the blackout never happens again. There is strong support for this legislation, which has passed the Senate twice before as part of the energy bill. But with the energy bill stalled, we simply cannot afford to wait any longer to move on reliability standards.

The blackout had a tremendous impact on New Yorkers and on the economy. Some experts put the costs to New York at more than $1 billion dollars and the costs nationwide at more than $6 billion.

In November, the Electric System Working Group of the United States-Canadian task force on the blackout released its draft report on the causes of the blackout. Among the report's findings was that the North American Electric Reliability Council's (NERC) voluntary reliability standards were violated at least six times during the series of events that led to the cascading blackout. This finding reinforced the need for swift enactment of mandatory, enforceable electricity reliability standards. We clearly need a system that provides real accountability for failure.

New Yorkers, and all Americans, are relying on Congress to help prevent another blackout. Congress needs to move swiftly on legislation in this area so that rules can be put in place before this summer. I urge my colleagues to support this important legislation.

Mr. JEFFORDS. Mr. President, I am pleased to be joining the Senator from Washington, Ms. CANTWELL, and the Senator from New York, Mrs. CLINTON, as an original cosponsor of legislation to ensure the reliable delivery of electric power in the United States. This bill is similar to Title I of the S. 1754, the Electric Reliability Security Act of 2003, that I introduced last October in response to the Northeast blackout.

Last night, in his State of the Union, the President urged Congress to pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy. This bill, the Electric Reliability Act of 2004, addresses the President's request, and the Senate should pass it expeditiously. Our country needs the new, clear national rules of the road contained in this bill to ensure the reliable delivery of electric power.

As the people in the Northeast will not soon forget, in August 2003 nearly 50 million people were affected by a massive power outage. But this is not an isolated incident. On January 16, 2004, Gov. James Douglas urged Vermonters to save power to help avert rolling blackouts because of electricity problems in southern New England. Though there was likely enough power to meet my State's demand, but we are part of a regional grid system. This system, as we learned last year, needs to operate in a coordinated fashion or the region faces blackouts.

The Senator from New York, Mrs. CLINTON, whose State was so significantly affected during the Northeast blackouts, knows well the hardship long electricity outages cause. I am pleased that she and the Senator from Washington, Ms. CANTWELL, have joined in this effort. The Senator from Washington, Ms. CANTWELL, has been alerted to the need for reliability legislation well before last year, as her State suffered during the massive multi-state Western blackout of 1996.

Be it 1996, 2003 or last week, these events emphasize the vulnerability of the U.S. electricity grid to human error, mechanical failure, and weather-related outages. Congress needs to do all that is necessary to protect the grid from devastating interruptions in the future. Those who know this issue well, say that reliability legislation is essential. On the first day of this year, Michehl Gent, President and Chief Executive of the North American Electric Reliability Council, said in the New York Times that all of the actions taken by industry and oversight organizations to respond to the Northeast blackout do ''not reduce the need for Federal legislation that would provide authority to impose and enforce mandatory reliability standards.'' He continues, ''whether legislation is adopted on a stand-alone basis or as part of a comprehensive energy bill, passage is essential. If reliability legislation had been enacted when first proposed, I believe that the blackout would not have occurred.''

Given that Congress has not passed grid reliability legislation, the Federal Energy Regulatory Commission decided during its December 17, 2003 open

meeting to have its staff develop an order over the next few weeks requiring utilities and other jurisdictional entities to report violations of voluntary reliability standards set by the North American Electric Reliability Council. The Commission also asked for comment on its legal authority under existing statutes to mandate compliance with those standards.

Why is Congress making FERC waste time trying to determine whether they have the legal authority to act to protect consumers and ensure electric reliability? We should simply make that statutory authority clear. Reliability legislation has passed the Senate twice, and this bill asks the Senate to act on those same provisions again. Congress should establish mandatory reliability standards and close other regulatory gaps left by state deregulation of the electricity sector. We should pass this bill now, and I pledge my support to the Senators from Washington and New York, Senators CANTWELL and CLINTON in doing so. Given the high costs of power outages to our country, we cannot afford to do otherwise. I invite my colleagues to join us in our efforts to advance energy security and reliability in the United States.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 285—RECOGNIZING 2004 AS THE ''50TH ANNIVERSARY OF ROCK 'N' ROLL

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 285

Whereas Elvis Presley recorded ''That's All Right'' at Sam Phillips' Sun Records in Memphis, Tennessee, on July 5, 1954;

Whereas Elvis' recording of ''That's All Right'', with Bill Black on bass and Scotty Moore on guitar, paved the way for such subsequent Sun Studio hits as Carl Perkins' ''Blue Suede Shoes'' (1955), Roy Orbison's ''Ooby Dooby'' (1956), and Jerry Lee Lewis' ''Whole Lotta Shakin'' (1957)—catapulting Sun Studio to the forefront of a musical revolution;

Whereas the recording in Memphis of the first rock 'n' roll song came to define an era and forever change popular music;

Whereas the birth of rock 'n' roll was the convergence of the diverse cultures and musical styles of the United States, blending the blues with country, gospel, jazz, and soul music;

Whereas the year 2004 provides an appropriate opportunity for our nation to celebrate the birth of rock 'n' roll, and the many streams of music that converged in Memphis to create a truly American sound known throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2004 as the 50th Anniversary of rock 'n' roll;

(2) commemorates Sun Studio for recording the first rock 'n' roll record, ''That's All Right''; and

(3) expresses appreciation to Memphis for its contributions to America's music heritage.

SENATE RESOLUTION 286—TO AUTHORIZE LEGAL REPRESENTATION IN UNITED STATES OF AMERICA V. PARVIS KARIMPANAHI

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 286

Whereas, in the case of United states of America v. Parviz Karim-Panahi, Crim. No. M–8374–03, pending in the Superior Court of the District of Columbia, the defendant has attempted to serve subpoenas for testimony and documents upon Senators Daniel K. Akaka, Wayne Allard, Evan Bayh, Joseph R. Biden, Robert C. Byrd, Hillary Rodham Clinton, Susan M. Collins, Mark Dayton, Elizabeth Dole, John Ensign, Lindsey O. Graham, James M. Inhofe, Edward M. Kennedy, Carl Levin, Richard G. Lugar, John McCain, Bill Nelson, E. Benjamin Nelson, Mark Pryor, Jack Reed, Pat Roberts, Jeff Sessions, James M. Talent, and John W. Warner, and on Senate employees Judith A. Ansley, Staff Director of the Committee on Armed Services, Scott W. Stucky, General Counsel to the Committee on Armed Services, June M. Borawski, Printing and Document Clerk of the Committee on Armed Services, Paul F. Clayman, Chief Counsel of the Committee on Foreign Relations, and Susan Oursler, Chief Clerk of the Committee on Foreign Relations; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the above-listed Senators and Senate employees who are the subject of subpoenas and any other Member, officer, or employee who may be subpoenaed in this case.

SENATE RESOLUTION 287—COMMENDING THE SOUTHERN UNIVERSITY AND A&M COLLEGE OF BATON ROUGE JAGUARS FOR BEING THE SHERIDAN BROADCASTING NATIONAL BLACK COLLEGE CHAMPIONS, THE AMERICAN SPORTS WIRE NATIONAL BLACK COLLEGE CHAMPIONS, AND THE MBC/BCSP NATIONAL BLACK COLLEGE CHAMPIONS

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following resolution; which was considered and agreed to

S. RES. 287

Whereas the Jaguars, the football team of the Southern University and A&M College of Baton Rouge, finished the 2003 season with 12 wins and was voted number 1 in the final Sheridan Broadcasting National Black College Football Poll for the second time under Head Coach Pete Richardson;

Whereas the Jaguars won the Southwestern Athletic Conference Championship, defeating Alabama State by a score of 20–9 at Legion Field in Birmingham, Alabama on December 13, 2003;

Whereas the Jaguars won the Southwestern Athletic Conference Western Division Championship, defeating Grambling State University by a score of 44–41 in the 30th Annual Bayou Classic in the Louisiana Superdome on November 29, 2003;

Whereas 4 Jaguar players were selected to the Sheridan Broadcasting National Black College All-American Team: Quincy Richard, Arnold Sims, Miniya Smith, and Lenny Williams;

Whereas Jaguar quarterback Quincy Richard was named the Sheridan Broadcasting National / Doug Williams Offensive Player of the Year and finished with 3,270 yards passing and 31 touchdowns;

Whereas the Jaguar Head Coach Pete Richardson was named Sheridan Broadcasting National Sports Coach of the Year; and

Whereas the Jaguars accounted for 5,486 total yards on offense and 63 touchdowns: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Jaguars for winning the Sheridan Broadcasting National Black College Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the Jaguars during the 2003 season and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the Southern University and A&M College of Baton Rouge for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2003 Jaguars.

SENATE RESOLUTION 288—COMMENDING THE LOUISIANA STATE UNIVERSITY TIGERS FOOTBALL TEAM FOR WINNING THE 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME

Mr. BREAUX (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 288

Whereas the Louisiana State University Tigers football team won the 2003 Bowl Championship Series national championship game, defeating Oklahoma University by a score of 21 to 14 in the Nokia Sugar Bowl at the Louisiana Superdome in New Orleans, Louisiana on January 4, 2004;

Whereas the Louisiana State University football team won the Southeastern Conference Championship, defeating the University of Georgia by a score of 34 to 13 in the Southeastern Conference championship game at the Georgia Dome in Atlanta, Georgia on December 6, 2003;

Whereas the Louisiana State University football team won 13 games during the 2003 season, more games than in any other season in school history;

Whereas the Louisiana State University football team won 5 games against nationally ranked opponents;

Whereas the Louisiana State University football team set 8 school records;

Whereas the Louisiana State University football team led the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only 1 team to score more than 20 points in any game during the season;

Whereas Louisiana State University football head coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America;

Whereas 4 players—Chad Lavalais, Corey Webster, Skyler Green, and Stephen Peterman—were named first-team All-Americans;